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United States
Department of Defense



Contract Oversight for the Broad Area Maritime
Surveillance Contract Needs Improvement

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Acronyms and Abbreviations

AT&L	Acquisition, Technology, and Logistics
BAMS	Broad Area Maritime Surveillance
COR	Contracting Officer's Representative
DCAA	Defense Contract Audit Agency
DCMA	Defense Contract Management Agency
DFARS	Defense Federal Acquisition Regulation Supplement
EVM	Earned Value Management
FAR	Federal Acquisition Regulation
FMR	Financial Management Regulation
IBR	Integrated Baseline Review
NAVAIR	Naval Air Systems Command
PCO	Procurement Contracting Officer



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

December 23, 2010

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
DIRECTOR, DEFENSE CONTRACT AUDIT AGENCY
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
NAVAL INSPECTOR GENERAL

SUBJECT: Contract Oversight for the Broad Area Maritime Surveillance Contract Needs
Improvement (Report No. D-2011-028)

We are providing this report for review and comment. This is second in a series of reports on the contract supporting the Broad Area Maritime Surveillance program. The Broad Area Maritime Surveillance system development and demonstration contract is worth \$1.8 billion and is part of a major acquisition program worth more than \$19 billion. DoD officials did not have the proper controls to validate contractor charges and performance for the Broad Area Maritime Surveillance contract. We considered management comments on a draft of this report when preparing the final report.

DoD Directive 7650.3 requires that recommendations be resolved promptly. To clarify our requests of management, we revised recommendations A.1.e.(3) and A.2.b. Additionally, some of the comments were only partially responsive, nonresponsive, or otherwise needed additional information. Therefore, we request additional comments from the Director, Defense Contract Management Agency; Assistant Commander for Contracts, Naval Air Systems Command; and the Program Manager, Persistent Maritime Unmanned Aircraft Systems Program Office on Recommendations A.1.c, A.1.e.(2-4), A.1.e.(9), A.1.e.(10), A.3.b, B.1.a.(1-2), B.1.b.(3), B.2.a and b by January 24, 2011.

If possible, send a .pdf file containing your comments to audacm@dodig.mil. Copies of management comments must have the actual signature of the authorizing official for your organization. We are unable to accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9201 (DSN 664-9201).

A handwritten signature in black ink, reading "Richard B. Jolliffe".

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management



Results in Brief: Contract Oversight for the Broad Area Maritime Surveillance Contract Needs Improvement

What We Did

This is the second in a series of reports on the Broad Area Maritime Surveillance (BAMS) program. Specifically, we determined that DoD officials did not have the proper controls to validate the contractor charges and performance for the BAMS contract. The BAMS contract with Northrop Grumman, valued at \$1.8 billion, is in the third year of a 7-year contract and is part of a major acquisition program worth more than \$19 billion.

What We Found

The Navy and Defense Contract Management Agency (DCMA) officials need to improve the management and administration of the BAMS contract. Specifically, BAMS contracting officials did not review 39 contractor bills or validate whether the BAMS contractor was entitled to \$329.3 million in payments, create or maintain a complete Government-furnished property listing, or properly plan to share more than 5,000 specialized tools and testing equipment, worth more than \$150 million, with the Air Force Global Hawk program. These conditions occurred because BAMS contracting officials did not properly perform all of their assigned duties, comply with Federal and DoD policies, or complete necessary training requirements. As a result, the BAMS program is at risk for increased costs, schedule delays, and not meeting the needs of the warfighter. Additionally, based on our inquiries, Northrop Grumman reduced costs on the BAMS contract by \$206,000 for unallowable travel expenses.

DCMA officials did not develop a complete quality assurance surveillance plan, perform any contractor inspections to validate the contractor's performance or the \$329.3 million paid, re-validate outdated and previously acquired Earned Value Management (EVM) systems from 1975 and 1978, or perform the

necessary surveillance of the BAMS subcontractors' EVM systems. These conditions occurred because DCMA officials did not complete their assigned duties or comply with EVM guidance. As a result, contract quality requirements may not be met and Navy and Office of the Secretary of Defense acquisition officials made decisions based on contractor EVM systems that may not be fully reliable.

What We Recommend

Among other recommendations, we made the following to Defense Contract Audit Agency (DCAA), DCMA, and Naval Air Systems Command officials:

- expedite the incurred cost audits,
- conduct an administrative review of the BAMS contracting officials,
- create and maintain a complete and auditable Government-furnished property listing,
- perform contractor surveillance and develop a proper quality assurance surveillance plan,
- re-validate outdated or previously acquired EVM systems, and
- perform surveillance of the EVM systems.

Management Comments and Our Response

The Director, DCMA; Director, DCAA; Assistant Commander for Contracts, Naval Air Systems Command; and the Program Manager, Persistent Maritime Unmanned Aircraft Systems Program Office provided comments for each recommendation. The comments were responsive, partially responsive, or nonresponsive; therefore, we require additional information. We revised two recommendations for clarity. We request additional comments by January 24, 2011. Please see the recommendations table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Contract Audit Agency		A.2.a and b
Director, Defense Contract Management Agency	B.1.a.(1-2), B.1.b.(3)	B.1.b.(1), B.1.b.(2), B.1.b.(4)(a), B.1.b.(4)(b), B.1.b.(5)
Assistant Commander for Contracts, Naval Air Systems Command	A.1.c, A.1.e.(2-4), A.1.e.(9), A.1.e.(10), B.2.a and b	A.1.a, A.1.b, A.1.d, A.1.e.(1), A.1.e.(5-8), A.1.e.(11)
Program Manager, Persistent Maritime Unmanned Aircraft Systems Program Office	A.3.b	A.3.a

Please provide comments by January 24, 2011.

Table of Contents

Introduction	1
Audit Objectives	1
Background on BAMS	1
Weaknesses in the Internal Controls for the Management of the BAMS Contract	3
Finding A. Improper Contract Management at Naval Air Systems Command	4
BAMS PCO Did Not Perform the Responsibilities for a Contracting Officer	5
Contractor Bills Did Not Meet Federal and DoD Requirements	5
Inadequate Contract Surveillance	11
The BAMS PCO and COR Did Not Properly Maintain a Complete Listing or Plan to Share Government-Furnished Property	12
Late Integrated Baseline Review	14
BAMS Contracting Officials Did Not Complete Required Acquisition Training	15
Conclusion	18
Recommendations, Management Comments, and Our Response	18
Finding B. Additional Actions Needed by Defense Contract Management Agency to Improve Contractor Surveillance	28
Quality Assurance Surveillance Not Performed	28
EVM Systems Not Properly Validated or Surveilled	30
Summary	33
Recommendations, Management Comments, and Our Response	33
Appendix. Scope and Methodology	40
Management Comments	
Defense Contract Audit Agency	42
Defense Contract Management Agency	45
Assistant Secretary of the Navy for Acquisition and Logistics Management	49

Introduction

Audit Objectives

This is the second in a series of reports on the Broad Area Maritime Surveillance (BAMS) contract. The first report focused on the BAMS contract award fee process. Our overall audit objective was to determine whether DoD officials properly managed and administered the contract supporting the BAMS program in accordance with Federal and DoD policies. See the appendix for discussion of our scope and methodology.

This audit was conducted to support the requirements of Public Law 110-181, “National Defense Authorization Act for FY 2008, section 842, “Investigation of Waste, Fraud, and Abuse in Wartime Contracts and Contracting Processes in Iraq and Afghanistan,” January 28, 2008. Section 842 requires:

Thorough audits to identify potential waste, fraud, and abuse in the performance of (1) Department of Defense contracts, subcontracts, and task and delivery orders for the logistical support of coalition forces in Iraq and Afghanistan; and (2) Federal agency contracts, subcontracts, and task and delivery orders for the performance of security and reconstruction functions in Iraq and Afghanistan.

Background on BAMS

The BAMS program is an Acquisition Category ID¹ program worth more than \$19 billion. On April 18, 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics approved the BAMS program to enter the system development and demonstration phase [Milestone B] of the DoD acquisition process. Navy officials stated that the BAMS unmanned aircraft system is scheduled to achieve initial operational capability in FY 2015. According to the BAMS contract, the BAMS unmanned aircraft system will provide continuous maritime intelligence, surveillance, and reconnaissance information to joint forces and fleet commanders worldwide. The contract also states that the system will provide DoD with an ability to continually detect, classify, and identify maritime targets. The Program Executive Officer for Unmanned Aviation and Strike Weapons oversees the Persistent Maritime Unmanned Aircraft System Program Office (BAMS Program Office). The proposed BAMS unmanned aircraft vehicle is shown in Figure 1.

¹ DoD Instruction 5000.02, “Operation of the Defense Acquisition System,” December 8, 2008, defines an acquisition category ID program as a DoD program that requires either more than \$365 million in Research, Development, Test, and Evaluation funds or Procurement funds of more than \$2.190 billion in FY 2000 dollars. According to BAMS program documentation, the BAMS program requires more than \$2.9 billion in Research, Development, Test, and Evaluation funds and the Procurement funds of more than \$8.8 billion in FY 2000 constant dollars.

Figure 1. BAMS Aircraft



Source: www.navair.mil

On April 22, 2008, a Naval Air Systems Command (NAVAIR) procurement contracting officer² (PCO) awarded a \$1.2 billion cost-plus-award-fee contract,³ N00019-08-C-0023, to Northrop Grumman Corporation, Integrated Systems (Northrop Grumman). Northrop Grumman then subcontracted with Northrop Grumman Electronic Systems; L-3 Communications Systems-West; Raytheon, Intelligence and Information Systems Communication; and others. The overall contract was for the system development and demonstration of the BAMS unmanned aircraft system with a low-rate initial production option. On February 17, 2009, the contracting officer modified the contract to account for additional costs for the system development and demonstration phase and increased the overall value of the contract by approximately \$627 million, to a total of \$1.8 billion. Additionally, the BAMS contract with Northrop Grumman is in the third year of a 7-year contract.

The Navy BAMS aircraft will use the same platform and some of the same components as the Air Force's Global Hawk aircraft. For example, the BAMS aircraft will use the same engine, auto takeoff and land function, and unmanned aircraft command and control center as the Global Hawk aircraft. The BAMS and Global Hawk programs will also share maintenance, training, manpower, and Government-furnished property.

Contract Award Protest

Lockheed Martin Tactical Systems filed a protest with the Government Accountability Office for the BAMS system development and demonstration contract award on May 5, 2008. The BAMS contracting officer subsequently issued a stop-work order for the contract on May 6, 2008. However, on August 8, 2008, the Government Accountability Office denied the protest, and the contracting officer restarted the work on the contract on August 11, 2008.

² NAVAIR contracting officials consider personnel with overall responsibility for the contract as procurement contracting officers.

³ According to Federal Acquisition Regulation Subpart 16.3, "Cost Reimbursement Contracts," a cost-plus-award-fee contract is a type of cost-reimbursement contract.

BAMS Contracting Officers Kept Changing

The BAMS contract had four contracting officers assigned to the contract since the award on April 22, 2008: three PCOs and one contracting specialist. According to NAVAIR officials, all of the PCOs and the contracting specialist were warranted contracting officers. The NAVAIR PCOs had unlimited warrants with overall responsibility of the contract; whereas, the contracting specialist had a limited warrant. The first BAMS PCO awarded the contract but left the position in June 2008. The second BAMS PCO was responsible for the contract from June 2008 to November 2008, which included the work stoppage. The third (current) BAMS PCO assumed the duties for the contract in November 2008. Additionally, the BAMS contracting specialist was assigned to assist the PCO since November 2008.

Weaknesses in the Internal Controls for the Management of the BAMS Contract

DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provide reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses in the management and administration of the BAMS contract. The BAMS contracting officials did not review contractor bills, manage and maintain Government-furnished property listings, complete required continuous learning training requirements, or conduct integrated baseline reviews. In addition, Defense Contract Management Agency (DCMA) officials did not create an adequate quality assurance plan, perform inspections of contractor work, re-validate changes to Earned Value Management (EVM) systems, or perform surveillance of the systems. For specific results of these weaknesses, see Findings A and B of this report. Implementing all recommendations in this report will improve the internal controls over the management and administration of the BAMS contract. We will provide a copy of the report to the senior officials responsible for internal controls at DCMA and NAVAIR.

Finding A. Improper Contract Management at Naval Air Systems Command

The NAVAIR BAMS PCO, contracting officer's representative (COR), and program officials did not properly manage the BAMS contract worth \$1.8 billion. Specifically,

- the PCO and the COR did not verify that the BAMS contractor was entitled to the \$329.3 million paid,
- the PCO and the COR did not review any contractor bills prior to payment to the BAMS Contractor,
- the PCO and the COR did not require the BAMS contractor to submit bills for payment in accordance with the DoD Regulation 7000.14-R, "DoD Financial Management Regulation," (DoD FMR) or comply with the terms of the contract,
- the PCO did not verify that DCMA officials conducted surveillance of the contract,
- the PCO and COR did not create or maintain an auditable Government-furnished property listing,
- the PCO and COR did not establish a complete property-sharing agreement between the Navy BAMS program and the Air Force Global Hawk program to share specialized tools and testing equipment worth more than \$150 million,
- the PCO and COR did not adequately plan for the use or oversight of Government-furnished property, and
- BAMS program officials did not conduct an integrated baseline review (IBR) until more than 180 days after the required completion date.

These conditions occurred because BAMS contracting officials did not completely or fully perform their assigned duties; comply with Federal, DoD, and Navy policies; provide effective contract oversight; or complete training requirements. As a result, the BAMS program is at risk for increased costs, schedule delays, and not meeting the needs of the warfighter. Additionally, based on our inquiries, Northrop Grumman reduced costs on the BAMS contract by \$206,000 in unallowable travel expenses.

BAMS PCO Did Not Perform the Responsibilities for a Contracting Officer

According to the Federal Acquisition Regulation (FAR) Subpart 1.6, “Career Development, Contracting Authority, and Responsibilities,” contracting officers are responsible for verifying that all necessary actions for effective contracting are performed and comply with the terms of the contract. The BAMS PCO delegated the contract administration responsibilities to DCMA-Bethpage and some surveillance functions to the COR.⁴ However, the BAMS PCO did not verify that DCMA-Bethpage or the BAMS COR performed their assigned duties. Specifically, DCMA-Bethpage officials did not perform any contractor surveillance or inspections and the COR did not review any contractor bills or properly maintain the Government-furnished property listing. Although the BAMS PCO delegated some of these responsibilities to DCMA-Bethpage officials and the COR, he is still ultimately responsible for verifying that these responsibilities were performed.

Contractor Bills Did Not Meet Federal and DoD Requirements

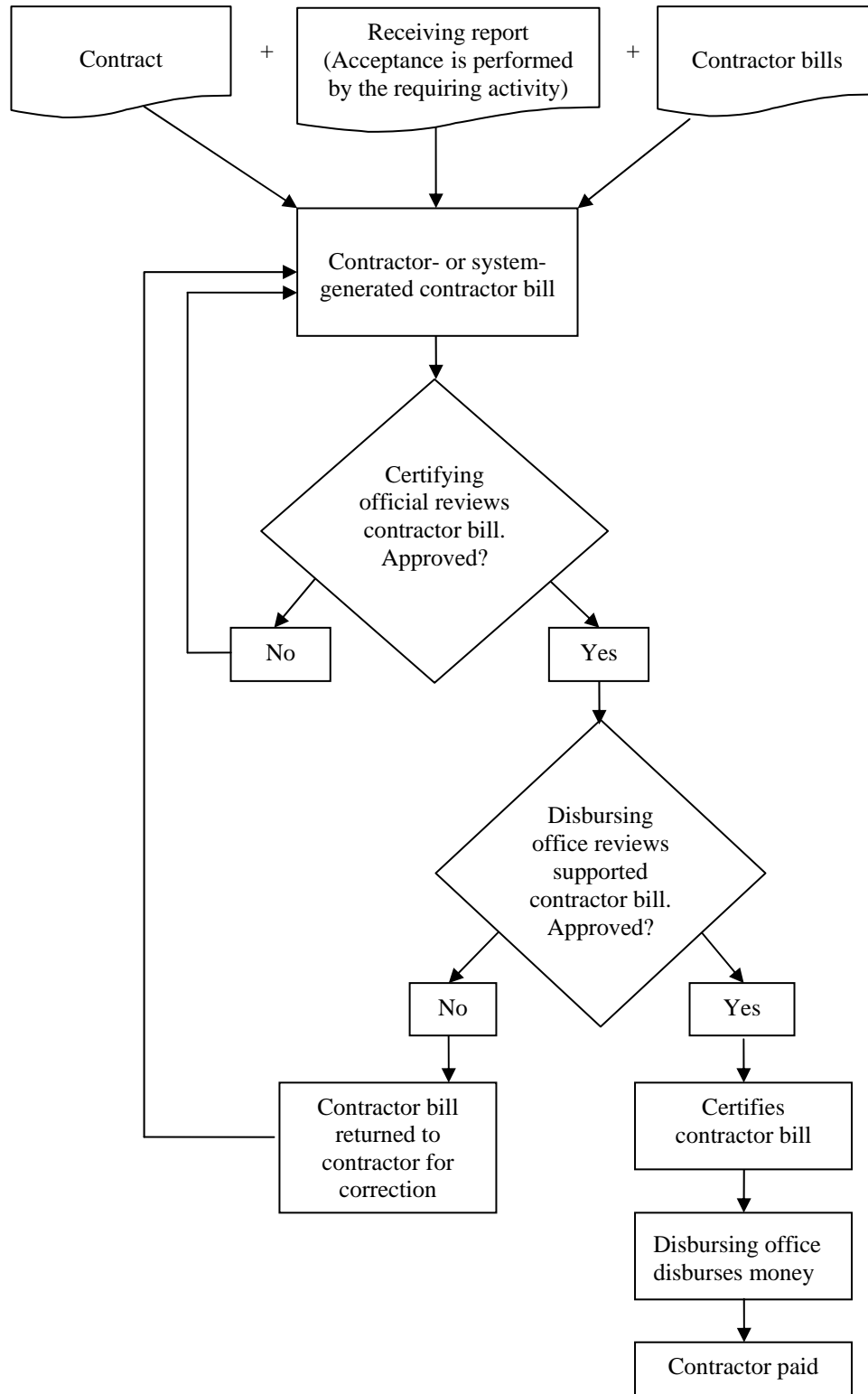
Federal Acquisition Regulation (FAR) Subpart 31.2, “Contracts with Commercial Organizations,” states that expenses billed to the Government are limited to costs that are allowable, allocable, and reasonable. DoD FMR, volume 10, chapter 1, states that payment cannot be made without determining entitlement to the payment. Entitlement consists of a receipt of a “proper”⁵ invoice, proof of receipt, and acceptance,⁶ as well as the contract terms and conditions. According to the DoD FMR, volume 10, chapter 7, a disbursing office must be provided supporting documents as evidence that the payment is legal. The supporting documents normally consist of a contract, invoices from contractors, and a receiving report completed by the office(s) receiving the property or service. Additionally, DoD FMR, volume 10, chapter 8, states that a contractor is “entitled” to payment when the contracting officer issues a contract, prepares a receiving report, and approves the invoice a contractor submits for payment. For purposes of this report, we will refer to contractor requests for payment (voucher) as a contractor bill. Figure 2 depicts the DoD billing and payment process.

⁴ The BAMS COR delegation letter, among other things, required that the COR identify and account for Government-furnished property and provide any change to the PCO for modification on the contract and review the contractor’s bills to verify that they accurately reflected the work completed in accordance with the requirements of the contract and certify acceptance.

⁵ According to FAR 52.232-25(a)(3), “Prompt Payment,” an invoice is considered “proper” when it contains the name and address of the contractor; invoice date; contract number; and description, quantity, and unit price and measure of supplies delivered or services performed.

⁶ Acceptance means an authorized Government official acknowledges that goods and services received conform to contract requirements.

Figure 2. Proper DoD Billing and Payment Process



Lack of BAMS PCO and COR Review of Contractor Bills

Neither the BAMS PCO nor the COR validated that the contractor was entitled to \$329.3 million paid on the BAMS contract as of January 12, 2010. Specifically, the BAMS PCO and the COR did not verify that the contractor bills were commensurate with the contractor's performance.

The BAMS COR delegation letter required that the COR "review the contractor's bills to ensure they accurately reflect the work completed in accordance with the requirements of

Neither the BAMS PCO nor the COR validated that the contractor was entitled to \$329.3 million paid on the BAMS contract, as of January 12, 2010.

the contract and certify acceptance." According to DoD FMR volume 10, chapter 7, actual acceptance is the written certification that the goods or services were received and that they conform to the terms of the contract. Therefore, the BAMS PCO required the COR to certify the Government acceptance of the work performed. However, the COR stated that she did not review contractor bills or perform the duties assigned to

her in her delegation letter because the letter was a generic NAVAIR COR letter. In addition, the BAMS PCO did not verify that the COR performed her assigned duties.

As a result, the PCO and the COR did not determine whether the costs were commensurate with the contractor's performance or complied with the terms of the contract. Therefore, the BAMS PCO and the COR allowed payments without performing actual acceptance or determining that the contractor was entitled to receive these funds. The contracting officer should hold the COR accountable to perform proper reviews of the contractor bills as part of her contract surveillance responsibilities before the bills are approved for payments in the wide-area workflow.⁷

DCAA Rescinded Northrop Grumman's Authority to Direct Bill

On July 20, 2009, DCAA Long Island Branch auditors rescinded Northrop Grumman's authority to direct bill⁸ because of its inability to resolve "systemic issues" with its billing system. According to a July 20, 2009, DCAA memorandum, Northrop Grumman failed to accurately adjust billing rates for FY 2004; included non-billable costs and fees that were not in accordance with applicable regulations and contract terms in its contractor bills; and failed to comply with contractual requirements which resulted in the billing of material costs in excess of requirements.⁹

⁷ The BAMS contract requires the contractor to submit its bills for payment through the wide-area workflow system. Wide-area workflow is a web-based system that allows DoD Components and their contractors to document the receipt, acceptance, entitlement, and payment process through data sharing and electronic processing.

⁸ According to the wide-area workflow Web site, direct billing occurs when DCAA grants the contractor authority to send interim vouchers directly to the appropriate Defense Financial and Accounting Service office for payment. DCAA then performs an audit only on the final payment.

⁹ For more details, see DCAA Report Nos. 2201-2009D11010002, 2201-2009D11010001, and 2201-D2009H11010001.

As a result, DCAA Long Island Branch auditors manually reviewed a sample of all Northrop Grumman contractor bills; these samples included Northrop Grumman bills related to the BAMS and other contracts.¹⁰ In total, the DCAA auditors reviewed four contractor bills worth more than \$43.4 million that were submitted for payment on the BAMS contract from August 2009 through January 2010. The DCAA auditors' review of the BAMS contractor bills consisted of testing the mathematical accuracy, reconciling the billed costs to the contractor's accounting records, and verifying whether the material claimed on the contractor's bill was based on contract requirements. Because of the issues identified in this report and DCAA's reports, DCAA Long Island Branch auditors should increase their review of Northrop Grumman's bills. Additionally, the BAMS PCO or COR should review the contractor bills to assist DCAA in determining whether Northrop Grumman's charges were billed in accordance with the contract terms.

BAMS Contractor Bills Did Not Provide Any Details or Reflect the Work Performed

None of the 39 contractor bills submitted from May 5, 2008, through January 12, 2010, complied with the DoD FMR. The BAMS contract did not require that the contractor

None of the 39 contractor bills submitted from May 5, 2008, through January 12, 2010, complied with the DoD FMR.

submit contractor bills in accordance with the DoD FMR. Instead, the contract required only that the contractor identify the contract line items on the bill that "reasonably reflect contract work performance" and to identify an amount for each contract line item billed.¹¹ The DoD FMR states that the contractor should bill the contract only for the services or supplies provided. DoD FMR

defines a contractor bill as proper when it contains, among other things, a description, quantity, unit of measure, and price of the supply or service being performed.

Additionally, the BAMS contractor did not comply with the terms of the contract because the contractor bills did not reasonably reflect the work performed or demonstrate entitlement to the billed amount. For example, the BAMS contractor bills submitted for payment indicated the total amount billed, a unit of measure as "each," and a quantity of "one" but did not itemize the amounts billed such as labor hours, travel, materials, and other direct costs. The BAMS COR also did not review the contractor bills to verify whether the charges were commensurate with the contractor's performance, as assigned in her delegation letter. Therefore, the BAMS PCO had no assurance that the contractor charged and was paid for goods and services required by the contract. Figures 3 and 4 are examples of bills that the contractor submitted and received payment for under the BAMS contract.

¹⁰ The DCAA auditors' sample of contractor bills included all DoD prime contracts submitted by Northrop Grumman Integrated Systems located in Bethpage, New York.

¹¹ The BAMS contract required the contractor to bill exclusively under one contract line item, which is a cost-plus-award-fee contract line item, for the system development and demonstration of the BAMS unmanned aircraft system.

Figure 3. Contractor Bill A

COST VOUCHER (INTERIM)					
- CONTINUATION SHEET					
* = Required Fields					
Contract Number		Delivery Order		Voucher Number	
N0001908C0023				BVN0032	
					Amount
Item No	Stock #	Unit Price	Unit of Measure	Qty. Invoiced	
0001	NONE	\$22,627,631.34	EA	1	\$22,627,631.34
	Stock Type	ACRN			
	MG	AB			
	SDN				
	AAA				
	Description				
	COST PLUS ITEM				
TOTAL:					\$22,627,631.34

Figure 4. Contractor Bill B

COST VOUCHER (INTERIM)					
- CONTINUATION SHEET					
* = Required Fields					
Contract Number		Delivery Order		Voucher Number	
N0001908C0023				BVN0039	
					Amount
Item No	Stock #	Unit Price	Unit of Measure	Qty. Invoiced	
0001	NONE	\$21,797,900.3	EA	1	\$21,797,900.30
	Stock Type	ACRN			
	MG	AB			
	SDN				
	AAA				
	Description				
	COST PLUS ITEM				
TOTAL:					\$21,797,900.30

The BAMS PCO should modify the contract to require that the contractor submit proper bills in accordance with the DoD FMR. The BAMS PCO should also request that the BAMS contractor include the necessary documentation to support the charges submitted

in the wide-area workflow system. By modifying the BAMS contract, the contractor bills should comply with the DoD FMR and better assist DCAA in certifying that the charges billed were allowable, allocable, and reasonable.

Unallowable Travel Expenses and Avoidable Award Fees Paid

The BAMS contractor billed and received payment for approximately \$206,000 in unallowable travel expenses and relocation costs. The BAMS contractor also billed and received payment for at a minimum \$90,000 in avoidable award fees. According to the BAMS contract, the Government was to reimburse the contractor for travel-related expenses incurred during performance of the contract and in accordance with FAR subpart 31.2 and the Joint Travel Regulation, volume 2, “DoD Civilian Personnel,” Appendix A. FAR subpart 31.2 states that travel costs are allowable when they are incurred during performance of the contract and to the extent the costs do not exceed the maximum allowable per diem rates at the time of travel.

We identified questionable travel expenses by the BAMS contractor such as a BAMS unmanned aircraft system golf outing and air shows in Washington, D.C.; Paris, France;

We identified questionable travel expenses by the BAMS contractor such as a BAMS unmanned aircraft system golf outing and air shows in Washington, D.C.; Paris, France; and Singapore that were paid by the PCO.

and Singapore that were paid by the PCO. The DCAA Long Island Branch auditors examined the travel expenses that we identified were billed under the BAMS contract, and determined that Northrop Grumman officials billed and received payment for unallowable travel costs on 17 travel vouchers.¹² According to the DCAA Long Island Branch auditor, a senior official at Northrop Grumman submitted 8 of the 17 travel vouchers that included the

unallowable charges for the BAMS contract. As of December 2009, the BAMS contractor reduced costs by \$206,000 on the contract for unallowable travel charges based on a Northrop Grumman review of the questioned travel vouchers. However, a Northrop Grumman official said that they did not review all travel vouchers or any other charges related to the contract. Therefore, there is a potential for additional unallowable expenses charged and paid to the BAMS contractor. The BAMS PCO should review all travel expenses and supporting documentation to verify that the contractor submitted travel claims in accordance with FAR subpart 31.2. The BAMS PCO should also recoup any additional unallowable travel expenses paid to Northrop Grumman.

Additionally, the BAMS contractor received payment for award fees on travel expenses billed for at least \$90,000 but possibly as much as \$300,000. The BAMS contract is a cost-plus-award-fee contract with a fixed-base award fee of 3 percent with an additional 7 percent in judgmental award fees available for a total of 10 percent in award fees based on the contractor’s performance for the BAMS contract. The BAMS contract required

¹² According to the DCAA Long Island auditor, he requested an investigation for the review of all Northrop Grumman travel vouchers submitted for payment under DoD contracts.

that Northrop Grumman charge all expenses to the cost-plus-award-fee contract line item. According to a DCAA Long Island Branch auditor, Northrop Grumman officials charged and received payment for a total of \$3 million in travel expenses on the BAMS contract. As such, Northrop Grumman received, at a minimum, \$90,000¹³ with a potential of \$300,000¹⁴ for award fees in addition to the travel expenses paid.

We question the practice of allowing the contractor to charge award fees based on travel expenses under a cost-plus-award-fee contract line item because it is difficult to evaluate the contractor's performance on travel. Since Northrop Grumman submitted unallowable travel expenses, one could argue that the contractor's performance would preclude it from receiving any such award fees on travel for the BAMS contract. Therefore, we considered the \$90,000, paid in award fees to Northrop Grumman as avoidable. Establishing a separate cost reimbursement contract line item, would eliminate any incentive to maximize travel billings. The Assistant Commander for Contracting, NAVAIR, should consider discontinuing this practice for future cost-plus-award-fee contracts and establish a separate contract line item in which the contractor can bill for travel expenses only on a cost-reimbursement basis.

The BAMS PCO and COR did not review the contractor bills as part of their surveillance functions; therefore, they allowed payment for expenses that were not allowable or reasonable to the BAMS contract. Additionally, due to a lack of supporting documentation, we were unable to determine whether additional expenses paid were unallowable. The BAMS PCO should request that Northrop Grumman perform a review of its travel claim approval process. DCAA Long Island Branch auditors should perform their incurred cost audits for the BAMS contract, within a year of the date the final report is issued, to determine whether there were other unallowable costs paid to the contractor.

Inadequate Contract Surveillance

The BAMS PCO did not verify whether DCMA Bethpage officials performed the necessary contract surveillance for the BAMS contract. On April 22, 2008, (contract award) the BAMS PCO delegated the contract administrative functions to DCMA Bethpage, New York. However, DCMA Bethpage officials did not develop a complete quality assurance surveillance plan or conduct any inspections of the BAMS contractor work as required by FAR Subpart 42.3, "Contract Administration Office Functions." The BAMS PCO delegated the contract quality assurance duties to DCMA Bethpage officials; however, he is ultimately responsible for verifying that the Government provided the required contractor oversight. See Finding B of this report for more details about contract surveillance.

¹³ We computed the \$90,000 by multiplying the total travel costs (\$3 million) by the base award fee (3 percent).

¹⁴ We computed the \$300,000 by adding the \$90,000 plus the \$210,000 in judgmental award fees available, which was computed by multiplying the total travel costs (\$3 million) by the judgmental award fee available (7 percent).

The BAMS PCO and COR Did Not Properly Maintain a Complete Listing or Plan to Share Government-Furnished Property

Neither the BAMS PCO nor the COR created a complete Government-furnished property listing or maintained an auditable listing for the BAMS contract. The BAMS PCO designated that the COR identify and account for Government-furnished property and provide any change for modifications to the contract. Additionally, the BAMS PCO did not appropriately plan to share property, worth more than \$150 million, with the Air Force Global Hawk program.

Government-Furnished Property Requirements

FAR Part 45, “Government Property,” defines Government-furnished property as property that is possessed or acquired by the Government and subsequently furnished to the contractor for performance of a contract. FAR Subpart 45.2, “Solicitation and Evaluation Procedures,” requires that the PCO identify all Government-furnished property anticipated in all solicitations. According to FAR part 45 and DoD Instruction 5000.64, “Accountability and Management of DoD-Owned Equipment and Other Accountable Property,” November 2, 2006, the Government-furnished property listing should include name, description, manufacturer, model number, national stock number (if applicable), quantity, unit acquisition cost, a unique item identifier, location of property, and date transferred. DoD Instruction 5000.64 also requires that property records be kept current and provide a complete audit trail of all transactions. Moreover, FAR Clause 52.245-1, “Government Property,” states that the Government will deliver the property described in the contract. The BAMS PCO provided a listing of Government-furnished property as an attachment to the contract. The BAMS property listing consisted of Government-furnished equipment, facilities, information, property, and special testing equipment.¹⁵

Incomplete BAMS Property Listing

Neither the BAMS PCO nor the COR created a complete Government-furnished property listing for the BAMS contract as required by FAR subpart 45.2 and DoD

However, the BAMS property listing did not include over 5,000 specialized tools and testing equipment worth more than \$150 million that the Navy will share with the Air Force.

Instruction 5000.64. The original BAMS Government-furnished property listing did not contain the location, date received by the contractor, the unique item identifier, the current status, or the unit acquisition cost of the property. The original property listing also indicated that various tooling and special test equipment were required for the contract. However, the BAMS property

listing did not include over 5,000 specialized tools and testing equipment worth more

¹⁵ In this report, we will refer to all types of Government property furnished to the BAMS contractors as Government-furnished property.

than \$150 million that the Navy will share with the Air Force. Some of the specialized tools and testing equipment included a “metallic curing fixture,” valued at \$437,000, and “mechanical transportation equipment,” valued at \$98,200. A BAMS program official stated that this occurred because the Navy BAMS program had not started to share the specialized tools and testing equipment with the Air Force Global Hawk program.¹⁶

We reviewed four different BAMS Government-furnished property listings. Two Government-furnished property listings were modified to the contract. The other two listings were provided by the BAMS COR and were not added to the contract. According to the BAMS COR delegation letter, the COR should identify and account for Government-furnished property and provide any change to the PCO for modification on the contract. During the audit, the COR revised the property listings to include the location of the property and the date received by the contractor. However, the COR did not provide the revised property listings to the PCO for modification of the BAMS contract, as required by her COR delegation letter.

Although the COR revised the BAMS Government-furnished property listing to include

Neither the BAMS PCO nor the COR created or maintained a complete and auditable Government-furnished property listing.

the property location and the date received, the listing still did not comply with FAR subpart 45.2 and DoD Instruction 5000.64. Neither the BAMS PCO nor the COR created or maintained a complete and auditable Government-furnished property listing. For example, the property listing identified a “laser beam analyzer” and a “mold” but did not include the item cost, unique item identifier, and the current status of the property. By not maintaining a

comprehensive and accurate property listing, BAMS PCO and COR demonstrated a lack of accountability for tracking BAMS Government-furnished property.

As a result, the BAMS PCO and the COR were unable to fully account for Government-furnished property provided for the BAMS contract. Without maintaining a reliable Government-furnished property listing, property is at risk for misplacement or theft, potentially causing Navy officials to repurchase the lost or misplaced property. The BAMS PCO, in coordination with the COR, should identify all Government-furnished property given to contractors as required by FAR subpart 45.2 and DoD Instruction 5000.64. The BAMS PCO should then modify the BAMS contract to include an accurate property listing. Additionally, the PCO must maintain auditable property listing as required by DoD Instruction 5000.64. The BAMS PCO should also perform semiannual reviews to verify the accuracy of the Government-furnished property listing.

Government Property-Sharing Agreement Not Finalized

The BAMS PCO established an agreement with the Air Force to share Government-furnished property for the BAMS contract. According to a Department of the Air Force,

¹⁶ Northrop Grumman is the prime contractor for both BAMS and Global Hawk programs.

Headquarters Aeronautical Systems Center memorandum, “Ground Rules and Assumptions for Non-Interference Use of Global Hawk Property for the Navy BAMS Program,” December 10, 2008, (Air Force Property-Sharing Agreement) Air Force officials agreed to share Global Hawk specialized tools and testing equipment with the Navy BAMS program. The Global Hawk program was to share over \$150 million worth of specialized tools and equipment with the BAMS program on a “rent-free, noninterference basis.” Some of the Global Hawk specialized tools and testing equipment included a floor assembly jig, valued at \$751,883, and a mold, valued at \$613,000. The Air Force property-sharing agreement stipulated that the BAMS program cannot delay or interfere with Global Hawk production activities. This stipulation could cause production and development delays for the BAMS contract. The BAMS Program Office property administrator stated that the BAMS PCO will have to purchase any equipment that was not readily available to the BAMS program and charge the costs to the BAMS contract. The property administrator also stated that the BAMS PCO did not develop a mitigation strategy to address potential production delays caused by the lack of availability of special testing equipment or the lead time for procurement of these items.

Additionally, the Air Force Property-Sharing Agreement states that any accumulated maintenance, repair, and labor costs will be paid for through a cost-share arrangement between the Global Hawk and the BAMS programs. However, the cost-share arrangement only outlined and established the terms and conditions of leveraging commonalities between the two programs to “reduce program costs for the DoD and pursue joint efficiencies.” The Air Force Property-Sharing Agreement did not state how the Navy and the Air Force would divide the maintenance, repair, and labor costs between the two programs, which could cause conflicts. As a result, the BAMS PCO did not properly plan to account for or share Government-furnished property with the Air Force. The BAMS PCO should develop a plan that includes clarification of the Air Force Property-Sharing Agreement for division of costs and the mitigation strategy for the availability of equipment.

Late Integrated Baseline Review

BAMS program officials did not conduct timely IBRs. According to FAR subpart 34.2, the Government must conduct an IBR to validate the accuracy of the program’s budget, resources, and schedule. Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.234-7002 further requires that the Government conduct an IBR no later than 180 days after (1) contract award, (2) the exercise of large contractual options, or (3) the integration of major contract modifications. BAMS program officials conducted one IBR on July 23, 2009, which was 362 days¹⁷ after contract award. According to BAMS program officials, the IBR included both the BAMS basic contract award and the \$627 million contract modification in modification 8. BAMS program officials stated that the delay occurred because the Program Executive Officer for Unmanned Aviation and Strike Weapons extended the IBR due date. However, this extension was not

¹⁷ Our calculations did not include the 98 days of work stoppage due to a contract award protest in May 2008.

documented in the contract file nor could officials provide evidence that this occurred. Table 1 shows the number of days that elapsed between the contract award and the major modification and when BAMS program officials conducted the only IBR.

Table 1. Required Integrated Baseline Reviews

Major Contract Event	Date of Event	180-Day Requirement	Date of Review	Number of Days
Contract Award	April 22, 2008	January 23, 2009	July 23, 2009	362
Modification 8	February 17, 2009	August 16, 2009	July 23, 2009	156

Although BAMS program officials completed an IBR within 180 days of the major contract modification, they did not conduct a separate IBR for the contract award. DFARS clause 252.234-7002 does not provide any exceptions for the requirement to conduct an IBR within 180 days after contract award. The DoD EVM implementation guide further states that IBRs are not one-time events and should occur throughout the life of the program. Therefore, BAMS program officials did not validate the accuracy of the BAMS contract budget, resources, or schedule until over a year after contract award. The BAMS program manager should conduct IBRs throughout the life of the contract in accordance with FAR subpart 34.2 and DFARS clause 252.234-7002.

BAMS Contracting Officials Did Not Complete Required Acquisition Training

The BAMS PCO¹⁸ and contracting specialist¹⁹ did not receive the required continuous learning training to maintain their skills and proficiencies in accordance with DoD and Navy policies. Additionally, the BAMS COR did not fully understand her assigned duties or ask for clarification to understand her role.

The BAMS PCO and contracting specialist did not receive the necessary continuous learning training to maintain their skills and proficiencies . . .

DoD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program," December 21, 2005, (DoD AT&L Continuous Learning

Policy) states that the primary objective of the program is to create a professional, agile, and motivated workforce that consistently makes smart business decisions, acts ethically, and delivers timely and affordable capabilities to the warfighter. According to the DoD AT&L Continuous Learning Policy, DoD AT&L workforce professionals must participate in continuous learning activities in order to remain proficient in their functional disciplines and initiatives in the DoD environment. The DoD AT&L

¹⁸ The BAMS PCO was responsible for the overall execution of the contract since November 2008.

¹⁹ The BAMS contracting specialist was assigned to the contracts in November 2008.

Continuous Learning Policy also requires that the DoD AT&L workforce earn a minimum of 40 continuous learning points every fiscal year and 80 continuous learning points during each 2-year training cycle. NAVAIR PCOs and contracting specialists are members of the DoD AT&L workforce and must follow the DoD AT&L Continuous Learning Policy.

The BAMS PCO and the contract specialist have not met the continuous learning requirement since the FY 2002 and 2003 and FY 2005 and 2006 training cycles, respectively. For example, the current BAMS PCO was 45 points deficient in his continuous learning points for the FY 2004 and 2005 training cycle, and the contracting specialist was 32 points deficient in her continuous learning points for the FY 2007 and 2008 training cycle. When asked, the current BAMS PCO stated that he could not remember the last time he received contract-related training.

Therefore, the BAMS PCO and contract specialist did not receive training to maintain their skills and proficiencies for managing and administering the contract in accordance with the DoD AT&L Continuous Learning Policy. The Assistant Commander for Contracting, NAVAIR, should conduct an annual training review of all NAVAIR contracting officials to verify that they received the appropriate training to maintain their knowledge, skills, and abilities relevant to contracting.

Individual Training Plans Not Established

The DoD AT&L Continuous Learning Policy requires that employees and their supervisors establish annual individual training plans for continuous learning. Additionally, the Department of the Navy, Office of the Assistant Secretary for Research, Development, and Acquisition memorandum, "Department of the Navy Policy Guidance on Continuous Learning for the Acquisition Workforce," November 4, 2002, implements the DoD AT&L Continuous Learning Policy. The Navy guidance requires employees and supervisors to work together and establish an individual training plan that emphasizes continuous learning activities the employees are to participate in annually.

Neither the PCO nor the contract specialist assigned to the BAMS contract developed an individual training plan. The PCOs, contract specialist, and their supervisors should be held accountable for not meeting the continuous learning requirements. The Assistant Commander for Contracting, NAVAIR, should verify on an annual basis that supervisors developed an individual training plan with the PCOs and contract specialist to stay current and proficient in their functional areas as required by the AT&L Continuous Learning Policy.

COR Training Improvements Needed

The BAMS COR did not fully understand her assigned duties or ask for clarification to understand her role. For example, the COR stated that she believed that she did not have to perform all assigned duties because her delegation letter was a standard NAVAIR COR letter.

DFARS subpart 201.6 states that a COR must have the necessary training and experience commensurate with the responsibilities assigned to that position. According to the Under Secretary of Defense for AT&L memorandum, “Designation of Contracting Officer’s

For example, the COR stated that she believed that she did not have to perform all assigned duties because her delegation letter was a standard NAVAIR COR letter.

Representatives on Contracts for Services in Support of Department of Defense Requirements,” December 6, 2006, properly trained CORs should oversee active contracts in support of DoD requirements. Additionally, the Deputy Secretary of Defense memorandum, “Monitoring Contract Performance in Contracts for Services,” August 22, 2008, states that trained CORs are

critical because they ensure that contractors comply with all contractual requirements and overall performance is commensurate with payments made throughout the contract.

According to the Office of Management and Budget, Office of Federal Procurement and Policy memorandum, “The Federal Acquisition Certification for Contracting Officer Technical Representatives,” November 26, 2007, (Federal COR Certification Program) all CORs appointed to a contract must receive the required training no later than 6 months from their date of appointment. The Federal COR Certification Program also establishes a competency-based core training and assignment-specific training to achieve and maintain the certification. To earn the Federal COR certification, the COR must complete 40 hours of training and maintain their skills through continuous learning. The 40 hours of training must consist of 18 hours in courses for managing a particular contract. However, the BAMS COR completed only two courses, which accounted for 10 of the required 40 hours identified in the Federal COR Certification Program. The BAMS PCO also did not require that the COR complete any BAMS contract-specific training to better understand her assigned duties.

According to the DoD Panel on Contracting Integrity’s, “2009 Report to Congress,” undated, DoD officials are in the process of developing the first standard DoD COR certification Program. This certification program will describe the certification process and identify the roles and responsibilities of CORs within the DoD. Additionally, the Under Secretary of Defense for AT&L issued a policy memorandum, “DoD Standard for Certification of Contracting Officer’s Representatives (COR) for Service Acquisitions,” on March 29, 2010. The policy memorandum establishes the DoD standard for the minimum COR competencies, experience, and training records according to the nature and complexity of the requirement and contract performance risk. The policy memorandum explains that the COR standard introduces structure to the COR

responsibilities. The COR standard will also be the basis for a forthcoming DoD Instruction establishing a comprehensive DoD COR certification program. The Under Secretary of Defense for AT&L also encouraged current and prospective CORs to complete the identified training as it becomes available.

Until DoD officials finalize and implement a COR certification program, the BAMS PCO should require and verify that the COR complete the training identified in the Federal COR Certification Program. The BAMS PCO should also verify that the COR fully understands her responsibilities and require that the COR complete additional functional area training in order to fulfill her assigned duties.

Conclusion

The PCO and COR did not perform their assigned duties for managing the \$1.8 billion BAMS contract. Specifically, the BAMS PCO and COR did not review 39 contractor bills, validate that the contractor was entitled to \$329.3 million paid to the contractor, or

The BAMS PCO and COR demonstrated a lack of due diligence and a disregard for Federal and DoD contracting requirements.

create a complete and auditable Government-furnished property listing. The BAMS PCO also did not require that the contractor submit bills in accordance with the DoD FMR, verify whether DCMA officials performed contract surveillance, or obtain his necessary continuous learning requirements. Furthermore, the BAMS PCO did not attempt to maintain his proficiencies as a contracting officer and the COR did not fully

understand her assigned duties or ask for clarification. The BAMS PCO and COR demonstrated a lack of due diligence and a disregard for Federal and DoD contracting requirements. Therefore, NAVAIR officials should perform an administrative review of the BAMS PCO and COR on the BAMS contract to determine whether administrative or personnel actions are appropriate.

Recommendations, Management Comments, and Our Response

The Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management endorsed the comments provided by the Assistant Commander for Contracts, NAVAIR (Assistant Commander for Contracts), and the Program Executive Officer, Unmanned Aviation and Strike Weapons (Program Executive Officer). In addition, the Regional Director, DCAA Northeastern Region (Regional Director), responded on behalf of the Director, DCAA.

Revised Recommendations

To clarify our requests of management, we revised Recommendations A.1.e.(3) and A.2.b.

A.1. We recommend that the Assistant Commander for Contracts, Naval Air Systems Command:

a. Conduct an annual training review of all contracting professionals to verify that they received training to maintain the knowledge, skills, and abilities relevant to contracting as required by DoD Instruction 5000.66, “Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program,” December 21, 2005.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed and stated that NAVAIR will implement a mandatory review of contracting professionals’ training. The Assistant Commander for Contracts also stated that she will ensure that contracting professionals receive training to maintain relevant contracting knowledge, skills, and abilities relevant to contracting as required by the AT&L Continuous Learning Policy. The estimated completion date for the initial training assessment is January 31, 2011.

Additionally, the Assistant Commander for Contracts explained that, upon completion of the initial training assessment, she will require supervisors to complete an annual review of training that will coincide with the existing performance review schedules. She also stated that departmental and site analysts will maintain spreadsheets to track mandatory training and individual training plans, which will be reviewed by the Resource Management Office with feedback provided to departments, if necessary.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required.

b. Perform an annual review to verify that supervisors develop individual training plans with the procurement contracting officer and the contract specialist so that they are current and proficient in their functional areas and they meet the 80 continuous learning points requirement in DoD Instruction 5000.66, “Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program,” December 21, 2005.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed. She stated that NAVAIR officials added an annual review requirement to verify that supervisors developed individual training plans with PCOs and contract specialists to ensure that they have met their requirements. The Assistant Commander for Contracts stated that NAVAIR officials are in the process of implementing individual training plans for GS-13s and above or the equivalent. The estimated completion date for the individual training plan templates will be no later than December 1, 2010. Additionally, a review to verify that individual training plans were created will be completed by February 2011.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required.

c. Initiate a review of the performance of the Broad Area Maritime Surveillance procurement contracting officer and determine whether administrative action is warranted.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts disagreed. She stated that the performance of the BAMS PCO had been reviewed by the NAVAIR Division Head and the Senior Executive Service Department Head as part of the National Security Personnel System semiannual and annual review process. She also stated that there were no actions identified that would warrant administrative action or further review of the BAMS PCO's performance.

Our Response

We disagree with the comments from the Assistant Commander for Contracts and ask her to reconsider her comments in response to the final report. Our report discloses serious problems with the overall management of the \$1.8 billion BAMS contract. Since the problems were not known during the National Security Personnel System review process, they could not have been addressed or considered in the PCO's performance.

d. Consider establishing a cost reimbursement contract line item in order to charge travel expenses incurred, on a cost reimbursement basis, for future cost-plus-award-fee contracts.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed. She stated that NAVAIR will consider including a cost reimbursement line item for travel for future procurements.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required.

e. Instruct that the Broad Area Maritime Surveillance procurement contracting officer:

(1) Request that Northrop Grumman Integrated Systems conduct a review of its travel claims approval process.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed. She stated that Northrop Grumman Integrated Systems already conducted a review of its travel claims approval process. The Assistant Commander for Contracts also stated that the BAMS PCO will request DCAA auditors to verify the adequacy of the Northrop Grumman travel claims approval process within the next 90 days.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required.

(2) Modify the contract to require that the contractor bills submitted for payment in the wide-area work flow system comply with DoD Regulation 7000.14 R, “DoD Financial Management Regulation,” volume 10, chapter 8.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts disagreed. She stated that a contract modification is not necessary because the contractor bills submitted for payment in the wide-area workflow system comply with DoD Regulation 7000.14 R, “DoD Financial Management Regulation,” volume 10, chapter 8.

Our Response

The comments from the Assistant Commander for Contracts are not responsive. The contractor bills did not comply with DoD Regulation 7000.14 R because they did not provide a description or price of the supply or service being performed, among other required elements. We request that the Assistant Commander for Contracts provide additional comments in response to the final report that demonstrate how the contractor bills comply with DoD Regulation 7000.14 R because they did not have the required elements or provide a waiver that exempts the BAMS contractor from having to comply with this regulation.

(3) Review and approve contractor bills submitted in the wide-area workflow system thereby certifying acceptance prior to Defense Contract Audit Agency auditors review and before payment.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts disagreed. She stated DCAA auditors have sole authority for approving claimed costs and interim payment requests, and the administrative contracting officer has the sole authority for approving final payment requests in accordance with AT&L guidance. The Assistant Commander for Contracts also stated that because significant contract administration functions are performed at the contractor’s facility, the BAMS contract is administered by DCMA officials. She explained that DCMA officials are organizationally poised to provide oversight of

contract performance since the Defense Management Review Decision 916 consolidated contract administration to DCMA.

The Assistant Commander for Contracts stated that when Northrop Grumman was approved for direct billing using wide-area workflow, interim vouchers went directly to the disbursing office for payment, she added that DCAA auditors now review and approve interim vouchers since they subsequently removed Northrop Grumman from direct billing on July 23, 2009.

Our Response

The comments from the Assistant Commander for Contracts are not responsive. We revised this recommendation to clarify the intent of the recommendation. The intent of the recommendation was to make sure that the BAMS PCO certifies Government acceptance of the goods or services as required by the DoD FMR before DCAA officials perform their reviews of contractor bills. Therefore, we request that the Assistant Commander for Contracts reconsider her position and provide revised comments in response to the final report stating whether she will require BAMS program officials to certify acceptance of goods and services provided before DCAA officials approve each interim voucher for payment.

(4) Review all travel expenses and the supporting documentation to verify that the contractor submits travel claims in accordance with Federal Acquisition Regulation Subpart 31.2, “Contracts With Commercial Organizations.”

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts disagreed. She stated that DCAA auditors have sole authority for confirming claimed costs and approving interim payment requests. She also stated that the DCMA administrative contracting officer has sole authority for approving final payment requests. She further stated that the October 2001 AT&L memorandum states that as a part of the billing process, DoD Components do not require contractors to submit detailed cost information.

Our Response

The comments from the Assistant Commander for Contracts are not responsive. The intent of this recommendation was to validate Government acceptance, not to certify contractor costs. However, because of the serious travel payment issues disclosed by the audit, we believe the Assistant Commander should have heightened interest in the acceptability of these costs. Therefore, we request that the Assistant Commander for Contracts provide comments in response to the final report stating whether she will review travel expenses and supporting documentation.

(5) Identify all Government-furnished property required for performance of the Broad Area Maritime Surveillance contract to include all shared Air Force Global Hawk specialized tools and testing equipment in accordance with the Federal Acquisition Regulation Subpart 45.2, “Solicitation and Evaluation Procedures.”

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that all Government-furnished property shared with the Air Force Global Hawk program had been appropriately identified. She further stated that NAVAIR will review the Government-furnished property listing to ensure that it is accurate and that it meets the requirements of FAR part 45 and DoD Instruction 5000.64. The estimated completion date is January 21, 2011.

Our Response

The Assistant Commander for Contracts' planned actions met the intent of the recommendations, and no further comments are required.

(6) Create and maintain a complete and auditable Government-furnished property listing as required by DoD Instruction 5000.64, "Accountability and Management of DoD-Owned Equipment and Other Accountable Property," November 2, 2006.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed and cited her response to Recommendation A.1.e.(5).

Our Response

The Assistant Commander for Contracts' planned actions met the intent of the recommendation, and no further comments are required.

(7) Modify the contract to include the revised and comprehensive Government-furnished property listing.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed. She stated that the BAMS PCO will modify the contract to include a revised and complete Government-furnished property listing throughout the execution of the contract.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required.

(8) Perform semiannual reviews of the Government-furnished property listing to account for all Government-furnished property.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts agreed. She stated that the BAMS integrated product team currently conducts periodic reviews of the Government-furnished property listings. She further stated that the reviews of the Government-furnished property listings have been more frequent than semiannual.

Our Response

The comments from the Assistant Commander for Contracts are responsive, and no further comments are required. We request that she provide a copy of the Government-furnished property reviews performed by the BAMS integrated product team for FY 2010.

(9) Establish a cost-sharing arrangement with the Air Force Global Hawk program that identifies how the Navy and Air Force plan to divide the maintenance, labor, and repair costs for the shared specialized tools and testing equipment.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that normally the agency that owns the shared tools and equipment is responsible for maintenance, labor, and repair costs. She also stated that NAVAIR officials will review the shared property to determine whether a cost-sharing arrangement is necessary. The estimated completion date is January 21, 2011.

Our Response

The comments from the Assistant Commander for Contracts are partially responsive. Although she stated that NAVAIR officials will determine whether a cost-sharing agreement is necessary with the Air Force Global Hawk program, she did not state whether NAVAIR officials will establish a cost-sharing agreement to divide the cost between the two programs. Therefore, we request that she provide comments in response to the final report that state whether she will establish a cost-sharing agreement if she determines that one is necessary.

(10) Develop a mitigation strategy for the Broad Area Maritime Surveillance program to identify alternate solutions for when the Air Force Global Hawk specialized tools and testing equipment are not readily available.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that the Navy, Air Force, and Northrop Grumman work closely together to find opportunities to leverage assets from both programs and sequence the use of the specialized tools and equipment to minimize incurred costs, while maintaining the individual platforms. The Assistant Commander for Contracts also stated that the BAMS program can save millions through this process. Additionally, she noted that the Navy, Air Force, and Northrop Grumman have a successful, proven record of sharing assets for the BAMS Demonstrator program.

Our Response

The comments from the Assistant Commander for Contracts are not responsive. She did not comment on whether the NAVAIR officials will develop a mitigation strategy for the BAMS program when specialized tools and testing equipment are not readily available. We request that in response to the final report, she provide either the strategy or an explanation of how she will effectively and efficiently implement the program should opportunities to leverage assets between the Navy and Air Force not work.

(11) Require that the contracting officer's representative complete the training identified in the Office of Management and Budget Memorandum, Office of Federal Procurement Policy, "The Federal Acquisition Certification for Contracting Officer Technical Representatives," November 26, 2007, until DoD establishes and implements a standard contracting officer's representative certification program.

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that the Federal COR Certification Program applies to all agencies except those subject to the Defense Acquisition Workforce Improvement Act. She further stated that the March 2010 Under Secretary of Defense AT&L policy memorandum established the DoD standard COR requirements. She further stated that the Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management issued a policy memorandum, "DoD Standard for Certification of Contracting Officer's Representatives for Services Acquisitions," May 18, 2010.

Although the Assistant Commander for Contracts stated that the BAMS COR completed the training required by NAVAIR Instruction 4200.28D, she will review training taken by the BAMS COR to determine whether it meets the May 2010 Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management memorandum. According to the Assistant Commander for Contracts, the Navy policy memorandum for CORs requires that the COR receive training that meets the COR 222, "Contracting Officer Technical Representative," training requirements. The estimated completion date is November 26, 2010.

Our Response

Although the Assistant Commander for Contracts partially agreed, her comments indicate that corrective actions were taken to implement a more robust training regime for the BAMS COR. Therefore, the comments from the Assistant Commander for Contracts met the intent of the recommendation, and no further comments are required.

A.2. We recommend that the Director, Defense Contract Audit Agency, instruct the Defense Contract Audit Agency, Long Island, New York, auditors to:

a. Increase the contractor bill reviews for Northrop Grumman Integrated Systems until the contractor demonstrates that it can bill in accordance with the contract terms.

Regional Director Comments

The Regional Director agreed. He stated that DCAA auditors will increase the frequency of interim voucher reviews for the BAMS contract at Northrop Grumman Systems, and voucher reviews will continue until the contractor properly bills in accordance with the terms of the contract. The Regional Director also stated that DCAA auditors began this review on October 1, 2010.

Our Response

The comments from the Regional Director are responsive, and no further comments are required.

b. Perform the calendar year 2008 incurred costs audit for the Broad Area Maritime Surveillance contract within one year of the date the final report is issued.

Regional Director Comments

The Regional Director partially agreed. He stated that, in response to this recommendation, DCAA auditors will initiate a direct cost audit for the BAMS contract in order to address the area of direct travel costs. He explained that the interim voucher sampling plan for the BAMS contract requires a review of different cost elements for each billing cycle, which includes the supporting documentation. He said that DCAA auditors will accelerate the contractor's calendar year 2008 incurred cost audit with an estimated completion date of September 30, 2011. However, the Regional Director stated that accelerating completion of the calendar year 2009 incurred cost claim audit would not be beneficial to the Government because there are no specific incurred cost claims and the period of performance for BAMS contract continues until calendar year 2015. He further stated that performing real-time direct cost audits of the interim voucher reviews would provide the most visibility and surveillance for the BAMS contract. Lastly, the Regional Director explained that incurred cost claims for Northrop Grumman requires extensive sampling and testing for over 200 flexible-priced contracts.

Our Response

The comments from the Regional Director are responsive. We revised the recommendation to require the review of only the calendar year 2008 incurred cost audit within a year of the date that the final report is issued. Because the Regional Director stated that DCAA auditors will accelerate the calendar year 2008 incurred cost audit, no additional comments are required.

A.3. We recommend that the Program Manager, Persistent Maritime Unmanned Aircraft Systems Program Office:

a. Conduct integrated baseline reviews as required by Defense Federal Acquisition Regulation Supplement clause 252.234-7002, “Earned Value Management System,” and the Broad Area Maritime Surveillance contract.

Program Executive Officer Comments

The Program Executive Officer partially agreed. He stated that in November 2008, BAMS program officials conducted a performance measurement baseline as a part of the initiation of the IBR process, which was within 180 days of the program re-start following the denial of the contract protest. He also stated that BAMS program officials conducted an IBR in July 2009 after the incorporation of a major contract modification in February 2009. Additionally, the Program Executive Officer stated that future IBRs will be conducted in accordance with DFARS clause 252.234-7002.

Our Response

The Program Executive Officer comments are responsive, and no further comments are required.

b. Initiate a review of the performance of the Broad Area Maritime Surveillance contracting officer’s representative and determine whether administrative action is warranted.

Program Executive Officer Comments

The Program Executive Officer disagreed. He stated that both the Division Head and Department Head have conducted National Security Personnel System semiannual and annual reviews of the BAMS COR. According to the Program Executive Officer, these reviews did not identify that administrative action was needed. He further stated that the performance of the BAMS COR as well as NAVAIR CORs was reviewed by their supervisors throughout the course of the year in accordance with current personnel procedures.

Our Response

We disagree with the comments from the Program Executive Officer. Our report disclosed serious problems with the management and oversight of the \$1.8 billion BAMS contract. Since these problems were not known during the National Security Personnel System review process, they could not have been considered in the prior BAMS COR personnel reviews. We request that in response to the final report, the Program Executive Officer reconsider his position and provide additional comments.

Finding B. Additional Actions Needed by Defense Contract Management Agency to Improve Contractor Surveillance

DCMA officials did not perform the necessary surveillance of the BAMS contract or the BAMS contractors' EVM systems. Specifically, DCMA officials did not:

- develop a complete quality assurance surveillance plan,
- perform any inspections to validate the BAMS contractor's performance for over 23 months,
- validate previously acquired and outdated EVM systems for the BAMS prime and subcontractors from 1975 and 1978, or
- perform the necessary surveillance of the BAMS subcontractors' EVM systems.

These conditions occurred because DCMA officials did not perform their duties as assigned, have the appropriate resources available to conduct the necessary EVM system surveillance, or comply with the FAR, DFARS, and DCMA guidance. As a result, BAMS program officials had no assurance that the BAMS contractor met contract quality requirements or the needs of the warfighter. BAMS program officials also made and will continue to make decisions affecting the \$1.8 billion contract based on information that may not be reliable.

Quality Assurance Surveillance Not Performed

According to FAR Subpart 42.3, "Contract Administration Office Functions," the office that is delegated the contract administration functions must perform the contract quality assurance requirements identified in FAR Part 46, "Quality Assurance." FAR part 46, states that the office assigned the contract administration functions must develop and apply efficient procedures for performing Government contract quality assurance actions. FAR part 46 also requires that the contract administration office perform all actions necessary, such as inspections, to verify that the supplies or services conform to contract quality requirements. Additionally, FAR Subpart 46.4, "Government Contract Quality Assurance," states that a quality assurance surveillance plan should identify all work requiring surveillance, locations of inspections, and the method for accepting the goods or services. FAR subpart 46.4 further states that Government surveillance can be performed during any stage of manufacturing or performance of service to verify that the supplies or services conform to the contract requirements.

Incomplete Quality Assurance Surveillance Plan

DCMA Bethpage officials did not create a complete quality assurance surveillance plan for the BAMS contract in accordance with FAR subpart 46.4. The BAMS PCO also did not verify whether DCMA Bethpage officials developed a quality assurance surveillance plan or perform due diligence to verify whether they conducted the necessary contract quality assurance functions. Without a complete and comprehensive quality assurance surveillance plan, the BAMS PCO and DCMA Bethpage officials did not have standards for determining whether the contractor complied with the contract quality requirements.

The BAMS quality assurance surveillance plan did not specify all work requiring surveillance or the inspections required to verify the contractor's performance as required by FAR subpart 46.4. The plan, instead, indicated that DCMA Bethpage officials would perform system audits and identified the quarter in which they were to perform system audits, but the plan did not provide any detailed audit steps. The plan also indicated that DCMA Bethpage officials would use a sampling method based on a risk assessment but did not identify the work requiring surveillance or the sampling method associated with the contractors' system risks. As a result, DCMA Bethpage officials developed an inadequate plan that did not specify the types of surveillance required or the methods necessary to complete surveillance.

Additionally, DCMA Bethpage officials did not finalize the quality assurance

Additionally, DCMA Bethpage officials did not finalize the quality assurance surveillance plan for the BAMS contract until February 2010, which was almost 2 years after contract award.

surveillance plan for the BAMS contract until February 2010, which was almost 2 years after contract award. DCMA Bethpage officials stated that this occurred because there was not enough staff available to perform the surveillance and a memorandum of agreement between the BAMS Program Office and DCMA Bethpage was not established until March 2009. However, during this time, DCMA Bethpage officials

did not perform any contract oversight even though the BAMS contractor continued to receive payments for supplies and services billed to NAVAIR.

It is imperative that DCMA Bethpage officials perform detailed and comprehensive surveillance for the BAMS contract because a cost-type contract poses increased risk for DoD. Therefore, the Commander, DCMA Bethpage, should require his staff to develop a quality assurance surveillance plan that complies with FAR subpart 46.4. The BAMS PCO should also verify that the plan complies with FAR.

No Government Inspections

DCMA Bethpage officials stated that they did not conduct any inspections to validate whether the contractor actually performed the services or provided the goods billed under the BAMS contract. The BAMS PCO also did not verify that DCMA Bethpage conducted surveillance of the BAMS contractor. FAR part 46 states that Government contract quality assurance consists of various functions and inspections performed by the

Government to determine whether a contractor fulfilled the contract obligations pertaining to quality and quantity. FAR part 46.4 requires that the contract administration office perform inspections of the contractors' work throughout the process and document all inspections conducted.

For example, in October 2009, the BAMS contractor claimed that it incurred

Although DCMA Bethpage officials did not perform required inspections, the BAMS PCO continued to pay the contractor \$329.3 million, as of January 12, 2010.

\$26.7 million in labor and \$16.3 million in material costs since the inception of the contract. However, DCMA Bethpage officials did not verify that the labor billed was commensurate with the work performed or that employees actually completed the work for the BAMS contract. DCMA Bethpage officials also did not review the materials billed to validate whether the goods were actually purchased, contractually required, and directly related to the contract.

Although DCMA Bethpage officials did not perform required inspections, the BAMS PCO continued to pay the contractor \$329.3 million, as of January 12, 2010. The Commander, DCMA Bethpage must identify methods of inspections, perform inspections, and document the results of those inspections for the BAMS contract as required by FAR part 46. The BAMS PCO should also validate that DCMA Bethpage officials performed inspections in accordance with FAR part 46.

EVM Systems Not Properly Validated or Surveilled

The BAMS program is an Acquisition Category ID program which requires program officials to use EVM. FAR Subpart 34.2, "Earned Value Management System," states that an EVM system is required for developing major acquisition systems. DFARS Subpart 234.2, "Earned Value Management System," also requires the use of an EVM system for cost reimbursement or incentive contracts and subcontracts for \$20 million or above. Additionally, DFARS subpart 234.2 states that DCMA is responsible for determining EVM system compliance for DoD.

FAR subpart 34.2 requires that the same EVM requirements apply for both the prime and subcontractors. According to DoD Instruction 5000.02, "Operation of the Defense Acquisition System," December 8, 2008, cost contracts of more than \$50 million must have a validated and accepted EVM system, and cost contracts with a value between \$20 million and \$50 million need only an accepted EVM system at contract award and throughout contract performance. According to a DCMA EVM Center official, a contractor obtains a validated system when a DCMA official certifies that the system meets all DCMA EVM system guidelines. Once a system is validated, it remains validated as long as DCMA officials continuously perform surveillance. For a contractor to have an accepted system, it needs to demonstrate that it can implement the EVM guidelines. The BAMS contract has four contractors, one prime contractor and three major subcontractors. Table 2 provides a list of BAMS contractors and whether each had an approved EVM system.

Table 2. EVM System Validation Letters as of September 2009

Contractor Name	Prime or Sub-contractor	Date of Contract Award	Contract Value (in millions)	Validation Letter	Date of Validation Letter
Northrop Grumman Integrated Systems	Prime	April 22, 2008	\$1,800	Yes	October 15, 1975
Northrop Grumman Electronic Systems	Subcontractor	August 25, 2008	130	Yes	August 18, 1978 ¹
L-3 Communications Systems-West	Subcontractor	August 26, 2008	103	Yes	September 21, 1993 ²
Raytheon, Intelligence and Information Systems Communications	Subcontractor	August 25, 2008	32	N/A ³	N/A ³
¹ Northrop Grumman Integrated Systems used an EVM system validation letter from Westinghouse Electric Corporation.					
² L-3 Communications Systems used an EVM system validation letter from Paramax Electronic Systems Division.					
³ For contracts and subcontracts of more than \$20 million but less than \$50 million, DoD Instruction 5000.02 requires that the EVM system only be accepted. On June 27, 2005, DCMA officials accepted Raytheon's EVM system.					

Validation Letters Were Dated 31 and 34 Years Ago

According to a DCMA official, once a contractor's EVM system is validated, it remains valid until further notice. DFARS Clause 252.234-7002, "Earned Value Management System," states that contractors must notify DCMA of any significant system changes and the impact of those changes. DCMA officials must then approve the changes before implementation or grant a waiver.

The BAMS prime contractor, Northrop Grumman (Northrop Grumman Integrated Systems), and all three major subcontractors had either a validated or accepted EVM system as required by DoD Instruction 5000.02. However, two BAMS contractors had EVM validation letters for systems of previously acquired companies, and another contractor had a validation letter that was dated more than 34 years ago. Northrop Grumman had a validation letter dated October 15, 1975; Northrop Grumman Electronic Systems had a validation letter from August 18, 1978, for Westinghouse Electric Corporation; and L-3 Communications Systems had a validation letter from September 21, 1993, for Paramax Electronic Systems Division.

Although the systems may have met validation requirements in the 1970s and for previously acquired companies, these systems may not resemble the ones certified.

Although the systems may have met validation requirements in the 1970s and for previously acquired companies, these systems may not resemble the ones certified.

BAMS program officials were relying on information generated by old EVM systems that did not have continuous surveillance to make decisions for a \$1.8 billion contract. The Director, DCMA EVM Center, should validate that the Northrop Grumman Integrated Systems, Northrop Grumman Electronic Systems, and L-3 Communications systems EVM systems are valid and comply

with current EVM standards. The Director, DCMA EVM Center, should also develop and issue a policy that prohibits the use of an acquired company's EVM validation letter to support the confirmation of a valid system for contract award.

Inadequate EVM System Surveillance

As of October 2009, DCMA officials did not provide proper EVM system surveillance for BAMS subcontractors. The DoD, "EVM Implementation Guide," October 2006, requires surveillance of all EVM systems throughout the contract to validate compliance with EVM system standards. According to the DCMA, "Earned Value Management Standard Surveillance Operating Manual," January 2008, the surveillance team is required to (1) develop an EVM system surveillance plan, (2) perform system surveillance on a monthly basis, and (3) assess all processes and guidelines annually unless the Director, DCMA EVM Center, grants a waiver.

According to the Director, DCMA EVM Center, EVM specialists created a specific EVM system surveillance plan for each EVM system location. The system surveillance plan outlined the testing to determine whether the system was compliant with EVM guidelines. However, DCMA officials did not establish the plans until nearly a year after the contractors were awarded subcontracts. DCMA officials did not develop an EVM system surveillance plan for Northrop Grumman Electronic Systems and Raytheon EVM systems until July 15, 2009, and August 3, 2009, respectively. According to a DCMA Virginia official, DCMA Virginia did not have a system surveillance plan for Raytheon prior to July 2009 because DCMA Virginia did not have personnel available to create the plan or conduct surveillance. Without a proper EVM system surveillance plan prior to contract award, DCMA officials were unable to determine whether information generated by the EVM systems was reliable.

Additionally, the DCMA EVM System Standard Surveillance Operating Manual requires monthly surveillance that, when combined for the entire year, creates an annual, full system assessment. The manual also states that DCMA officials must conduct testing in accordance with the system surveillance plan and produce system surveillance reports documenting their findings. However, DCMA officials did not conduct monthly system surveillance for Northrop Grumman Electronic Systems EVM system until August 2009. For Northrop Grumman Electronic Systems, DCMA officials did not perform a complete assessment in 2008 and they did not assess the EVM system in 2009. For Raytheon,

DCMA officials did not assess the EVM system in 2008 and determined that Raytheon's EVM system was noncompliant in 2009. The Director, DCMA EVM Center, did not waive the requirements to conduct surveillance of the BAMS subcontractors. Therefore, DCMA officials should have conducted surveillance as required by EVM guidelines to gain assurance that the EVM information provided to BAMS program officials was accurate for the \$1.8 billion contract.

As a result, BAMS program officials were unable to confirm that EVM data provided by the subcontractors were reliable. The Director, DCMA EVM Center, should verify that monthly EVM surveillance and annual system assessments are performed in accordance with the System Standard Surveillance Operating Manual.

As a result, BAMS program officials were unable to confirm that EVM data provided by the subcontractors were reliable.

Additionally, BAMS program officials should not rely on the EVM data until DCMA officials validate all applicable EVM systems and DCMA officials are performing the necessary system surveillance of

the BAMS prime and subcontractors. This process should provide assurance that the BAMS contractors' EVM systems are providing reliable and accurate data.

Summary

DCMA Bethpage officials did not develop a complete quality assurance surveillance plan or perform inspections to validate the BAMS contractor's performance in accordance with FAR part 46. Additionally, DCMA officials did not validate previously acquired or outdated EVM systems or perform surveillance of the BAMS subcontractors' EVM systems. As a result, BAMS program officials had no assurance that the BAMS contractor met contract quality requirements. BAMS program officials also made and will continue to make decisions affecting the \$1.8 billion contract based on information that may not be reliable.

Recommendations, Management Comments, and Our Response

The Deputy Assistant Secretary of the Navy for Acquisition and Logistics Management endorsed the comments provided by the Assistant Commander for Contracts.

B.1. We recommend that the Director, Defense Contract Management Agency:

a. Direct the Commander, Defense Contract Management Agency, Bethpage, New York to:

(1) Develop a complete and comprehensive quality assurance surveillance plan for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Subpart 46.4, “Government Contract Quality Assurance.”

Defense Contract Management Agency Comments

The Director, DCMA, partially agreed. He stated that DCMA Bethpage officials use a facility-wide quality assurance surveillance approach. He also stated that in April 2008 (contract award), DCMA Bethpage officials had a facility-wide surveillance plan that referenced all other programs at DCMA Bethpage. The plan was updated in February 2009. The Director further stated that DCMA Bethpage officials updated the plan in February 17, 2010, to include the BAMS contract.

The Director then explained that DCMA Bethpage employs other supporting plans that review the contractor’s supply chain, critical safety items, and logistics systems. He stated that DCMA Bethpage officials use letters of delegation to describe these surveillance areas and provide directions for subcontracting surveillance to local DCMA offices; however, at the time of the audit, these plans and letters of delegation were not referenced to the quality assurance surveillance plan, but were offered for review. Additionally, the Director stated that although surveillance plans were in place during the period of the contract, the surveillance planning process is continuously being modified by DCMA Bethpage officials to enhance surveillance and comply with Agency guidelines. Finally, he stated that DCMA Bethpage officials will revise the quality assurance surveillance plan to reflect current policy and contain facility-wide surveillance activities as well as BAMS contract-specific surveillance activities by November 1, 2010.

Our Response

The Director, DCMA’s, comments are partially responsive. We agree that during the audit, the DCMA Bethpage facility-wide quality assurance surveillance plan was not referenced or linked to the various letters of delegation or other DCMA site surveillance plans. DCMA Bethpage officials revised the February 17, 2010, plan to include the BAMS program but they did not include any specific surveillance requirements or locations of surveillance for the BAMS contract. According to the FAR subpart 46.4, quality assurance surveillance plans should identify all work requiring surveillance, locations of inspections, and the method for accepting the goods or services. We request that in response to the final report, the Director, DCMA, provide his plan and an estimated date that the BAMS quality assurance surveillance plan will be completed that identifies all work requiring surveillance, location of inspections, and the method for accepting the goods or services in response to the final report.

(2) Perform inspections and document the inspections completed for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Part 46, “Quality Assurance.”

Defense Contract Management Agency Comments

The Director, DCMA, partially agreed. He stated that the BAMS PCO awarded the contract to Northrop Grumman at DCMA Bethpage, and delegated the contract administration functions to DCMA Bethpage; however, he said that no products are manufactured or inspected at DCMA Bethpage. The Director explained that all manufacturing is accomplished through purchase orders to subcontractors and at other Northrop Grumman sites with delegated DCMA contract administration functions at those contractor facilities. He further explained that in accordance with letters of delegation issued to local DCMA offices with cognizance of the subcontractors and Northrop Grumman sites, DCMA inspections are performed to validate contractor performance in accordance with FAR part 46. Additionally, the Director stated that about 100 letters of delegation for quality assurance have been issued as of October 8, 2010. He also stated that DCMA Bethpage officials monitor the surveillance but that the local DCMA offices are responsible for maintaining documentation that accounts for the delegated surveillance activities and performing the analysis in adjusting risk and associated strategies for the BAMS contract quality assurance surveillance plan.

Our Response

The Director, DCMA, comments are not responsive. The Director’s comments contradict information provided to us during the audit. For example, the BAMS administrative contracting officer at DCMA Bethpage stated that DCMA officials did not perform any inspections to verify the contractor’s performance as of March 2010.

The DCMA Bethpage program integrator provided us with an example of a letter of delegation from DCMA Bethpage to DCMA Texas. We reviewed this letter of delegation and determined that it did not require any activities to verify whether the contractor met any contract quality requirements as required by FAR part 46. Instead, the letter of delegation focused on activities overseeing EVM data.

DCMA Bethpage officials have overall responsibility of the contract administration and quality assurance requirements as delegated to them by the BAMS PCO. Even though DCMA Bethpage officials further delegate some of these responsibilities, they must still oversee the BAMS contract surveillance and verify that the work is performed in accordance with the requirements of FAR part 46. Therefore, we request that the Director, DCMA, provide comments in response to the final report stating whether he will perform and document completed inspections for the BAMS contract.

b. Instruct the Director, Defense Contract Management Agency, Earned Value Management Center to:

(1) Perform a review to determine whether the Broad Area Maritime Surveillance contractors' outdated or previously acquired earned value management systems remain valid and comply with current earned value management systems standards as required by the Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

Defense Contract Management Agency Comments

The Director, DCMA, agreed. He stated that after conducting an initial review, two contractors are operating with EVM system acceptance letters under different corporate entities, and another contractor was using an acceptance letter at one site that was issued for a different site. According to the Director, these contractors complied with EVM standards and will undergo a DCMA EVM system implementation review.

Our Response

The Director, DCMA, comments are responsive, and no further comments are required.

(2) Prohibit contractors from using a validation letter from a previously acquired company's earned value management system unless the contractor demonstrated that it is using the system as it was validated in accordance with Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

Defense Contract Management Agency Comments

The Director, DCMA, agreed and cited his response to Recommendations B.1.b.(1) and B.1.b.(3).

Our Response

The Director, DCMA, comments are responsive, and no further comments are required.

(3) Perform surveillance of the earned value management systems for the Broad Area Maritime Surveillance contractors as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

Defense Contract Management Agency Comments

The Director, DCMA, partially agreed. He stated that the EVM surveillance is performed in accordance with the DCMA EVM system surveillance operating manual. He also stated that contracts surveyed each year are evaluated on a risk matrix in accordance with the DCMA system surveillance operating manual to determine whether data from each contract will be used in that year's annual EVM system surveillance. Additionally, the Director noted that contracts with low risk may not contribute data in the evaluation of the EVM system for a given year.

Our Response

The Director, DCMA, comments are not responsive. Specifically, he did not state whether he will perform surveillance of all BAMS contractors' EVM systems. According to the DCMA EVM System Surveillance Operating Manual, every EVM system should have a system surveillance plan that establishes the surveillance approach, risk criteria, and schedule. In addition, the DoD EVM Implementation Guide states that all management control systems that require EVM compliance also require surveillance regardless of whether the system is validated. Therefore, we request that the Director, DCMA, provide comments in response to the final report that state how he will comply with these requirements.

(4) Validate that the appropriate Defense Contract Management Agency office for the Broad Area Maritime Surveillance contractors:

(a) Created an earned value management system surveillance plan as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

Defense Contract Management Agency Comments

The Director, DCMA, agreed. He stated that for the BAMS contract, all but one of the DCMA contract management offices has a system surveillance plan. He noted that for the DCMA office without a plan, the contractor has a contract worth \$20 to \$50 million, which does not require a system validation. Additionally, the Director stated that DCMA officials will develop a system surveillance plan at that location with an estimated completion in FY 2011.

Our Response

The Director, DCMA, comments are responsive, however; we request that he indicate a specific date by which he will provide us the EVM system surveillance plan for the location for which he does not have a plan.

(b) Performed monthly surveillance of the earned value management system as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008 and the earned value management system surveillance plans.

Defense Contract Management Agency Comments

The Director agreed and cited his response to Recommendation B.1.b.(4)(a).

Our Response

The Director, DCMA, comments are responsive, however; we request that he indicate a specific date by which he will provide us the end-of-year EVM status letters for all BAMS subcontractors.

(5) Notify DoD acquisition officials that the data generated from the Broad Area Maritime Surveillance contractors' earned value management systems should not be considered fully reliable until the systems are re-validated and receive the required system surveillance.

Defense Contract Management Agency Comments

The Director, DCMA, disagreed. He concluded that there is no risk to the EVM data, system, or reliability of data within the DCMA EVM systems for the BAMS program because the DCMA EVM system surveillance and compliance review process are working and surveillance is being monitored. He explained that all 11 prime contractor and subcontractor DCMA contract management offices are performing ongoing system surveillance in accordance with agency policies. He also stated that the system surveillance includes conducting monthly surveillance activities, producing system surveillance plans and standard surveillance reports, and issuing corrective action requests when necessary.

Our Response

Although the Director, DCMA, disagreed, the actions taken by DCMA officials to strengthen the EVM system validation and surveillance process indicate that corrective actions were taken to satisfy the intent of this recommendation. No further comments are required.

B.2. We recommend that the Assistant Commander for Contracts, Naval Air Systems Command:

a. Verify that Defense Contract Management Agency Bethpage officials developed a complete and comprehensive quality assurance surveillance plan in accordance with Federal Acquisition Regulation Subpart 46.4, "Government Contract Quality Assurance."

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that Recommendation B.2.a. should be redirected to DCMA Bethpage officials. Specifically, she stated that we should require DCMA Bethpage officials to provide a certification to the BAMS PCO stating that they developed a complete and comprehensive quality assurance surveillance plan in accordance with FAR subpart 46.4.

Our Response

The Assistant Commander for Contracts comments are not responsive. We did not redirect Recommendation B.2.a. to DCMA Bethpage officials because the BAMS PCO is ultimately responsible for managing the execution of the contract, and he should verify whether DCMA Bethpage officials developed a complete and comprehensive quality assurance surveillance plan in accordance with FAR subpart 46.4. We request that the Assistant Commander for Contracts provide her plan of actions and milestones to verify

that DCMA Bethpage officials developed a quality assurance surveillance plan that complies with FAR subpart 46.4 in response to the final report.

b. Validate that Defense Contract Management Agency Bethpage officials performed surveillance and inspections in accordance with the Federal Acquisition Regulation Part 46, “Quality Assurance.”

Assistant Commander for Contracts Comments

The Assistant Commander for Contracts partially agreed. She stated that Recommendation B.2.b. should be redirected to DCMA Bethpage officials. Specifically, she stated that we should require DCMA Bethpage officials to provide a yearly validation to the BAMS PCO stating that they performed surveillance and inspections in accordance with FAR part 46.

Our Response

The Assistant Commander for Contracts comments are not responsive. We did not redirect Recommendation B.2.b. to DCMA Bethpage officials because the BAMS PCO is ultimately responsible for managing the execution of the contract, and it is his responsibility to verify whether DCMA Bethpage officials performed surveillance and inspections in accordance with FAR part 46. We request that the Assistant Commander for Contracts provide her plan of actions and milestones to validate that DCMA Bethpage officials comply with FAR part 46.

Appendix. Scope and Methodology

We conducted this performance audit from July 2009 through September 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We interviewed BAMS program, NAVAIR contracting, DCMA Bethpage, and DCAA Long Island officials responsible for contractor billing, quality assurance, EVM validation and surveillance, Government-furnished property, and contracting officials' training. To review the original BAMS contracting documentation, we visited NAVAIR Headquarters in Patuxent River, Maryland, and DCMA Aircraft Integrated Maintenance Organization in Bethpage, New York. We also contacted officials from DCMA Virginia; DCMA Hartford; DCMA Salt Lake City; DCMA Baltimore, Maryland; and the Defense Finance and Accounting Service Columbus, Ohio, by phone and e-mail.

For NAVAIR contract management, we reviewed the BAMS contract and modifications; the COR delegation letter; contractor bills; contractor progress, status, and management reports; documentation of DCAA auditor contractor bill reviews; Government property-sharing memoranda between the Air Force and the Navy; BAMS PCO, contracting specialist, and COR training transcripts, certificates, and warrants; and IBR documentation. We reviewed the documents for compliance with the FAR, DFARS, the DoD FMR, DoD Instruction; the BAMS contract; Office of Management and Budget memorandum; DoD Directive for the AT&L Workforce Education, Training, and Career Development Program; Department of Navy Policy Guidance on Continuous Learning for the Acquisition Workforce; the Department of Navy, Office of the Assistant Secretary for Research, Development, and Acquisition Memorandum; and DoD EVM Implementation Guide.

For DCMA contractor surveillance, we reviewed the BAMS contract and modifications; contractor progress, status, and management reports; contract performance report plans; quality program plans; memoranda of agreement; the COR delegation letter; DCMA product assurance and surveillance plans; End of Year EVM status letters; EVM validation letters; monthly surveillance reports; DCMA advanced agreements. We reviewed the documents for compliance with the FAR; DFARS; DoD Directives; DoD FMR; Office of the Under Secretary of Defense memoranda; Deputy Secretary of Defense memoranda; NAVAIR instructions; DoD instructions; DoD EVM Implementation Guide; DCMA EVM Standard Surveillance Operating Manual; Under Secretary of Defense for AT&L memoranda; and the Assistant Secretary of the Navy, Research, Development, and Acquisition, Center for EVM guidance.

Use of Computer-Processed Data

We relied on information and documentation contained in the BAMS contracting files and provided by DoD personnel to support the findings and conclusions of this report. We verified any computer-processed data used from the wide-area workflow system to obtain the bills submitted by the BAMS contractor for payment. We did not use the information obtained from the wide-area workflow system as the sole basis for our findings and conclusions. Therefore, we did not perform a formal reliability assessment of the computer-processed data.

Prior Coverage

During the last 5 years, the Department of Defense Inspector General (DoD IG) has issued one report discussing the BAMS contract. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

DoD IG

DoD IG Report No. D-2011-014, “Weaknesses in Awarding Fees for the Broad Area Maritime Surveillance Contract,” November 2, 2010

Defense Contract Audit Agency Comments



IN REPLY REFER TO:
RD-2 225.2.B

NORTHEASTERN REGION
DEFENSE CONTRACT AUDIT AGENCY
DEPARTMENT OF DEFENSE
59 LOWES WAY, SUITE 300
LOWELL, MASSACHUSETTS 01851-5150

October 1, 2010

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR ACQUISITION AND
CONTRACT MANAGEMENT, OFFICE OF THE INSPECTOR
GENERAL, DEPARTMENT OF DEFENSE

ATTENTION: [REDACTED]
Program Director Acquisition and Contract Management

SUBJECT: Response to Department of Defense Office of Inspector General (DoDIG)
Draft Report Titled, *Contract Oversight for the Broad Area Maritime
Surveillance (BAMS) Contract Needs Improvement*, dated September 2,
2010 (Project No. D2009-D000AS-0247.002)

Thank you for the opportunity to respond to the subject draft report, *Contract Oversight for the Broad Area Maritime Surveillance (BAMS) Contract Needs Improvement*. The following are DCAA's comments and responses to each of the recommendations impacting DCAA.

We appreciate the opportunity you afforded us to provide preliminary/factual commentary on your initial draft report dated July 27, 2010 and your revised draft report dated September 2, 2010.

In your revised draft report dated September 2, 2010, as part of your discussion related to Unallowable Travel Expenses and Avoidable Award Fees Paid, you state, "DCAA Long Island Branch auditor should perform their incurred cost audits for the BAMS contract, within a year of the date the final report is issued, to determine whether there were other unallowable costs paid to the contractor". In that regard, there is no separate incurred cost audit of the specific BAMS contract, all flexible-priced contracts are sampled and reviewed during each incurred cost claim audit. A Final Voucher Evaluation will be performed on the BAMS contract upon the contractor's submission of a Final Voucher to DCAA. The BAMS contract has a period of performance running through Calendar Year (CY) 2015.

DCAA performs interim voucher reviews during contract performance based on a sampling plan and we performed four (4) such reviews specific to the BAMS contract during the period that the DoDIG report covered. So far, we have identified

RD-2 225.2.B

October 1, 2010

SUBJECT: Response to Department of Defense Office of Inspector General (DoDIG) Draft Report Titled, *Contract Oversight for the Broad Area Maritime Surveillance (BAMS) Contract Needs Improvement*, dated September 2, 2010 (Project No. D2009-D000AS-0247.002)

unallowables in the areas of Direct Travel and Direct Relocation on the BAMS contract during such testing. During each billing cycle, we continue to sample different cost elements to supporting documentation for this contract.

Specific DoDIG recommendations and DCAA comments follow:

DoD I/G Recommendations: A.2. "We recommend that the Director, Defense Contract Audit Agency, instruct the Defense Contract Audit Agency, Long Island, New York, auditors to:

- a. Increase the contractor bill reviews for Northrop Grumman Integrated Systems until the contractor demonstrates that it can bill in accordance with the contract terms.
- b. Perform the incurred costs audits for the Broad Area Maritime Surveillance contract within one year of the date the final report is issued for all years under the contract for which the contractor has provided incurred cost submissions."

DCAA Response to DoDIG Recommendation A.2.a. and A.2.b.

A.2.a. Concur. We historically program and perform Interim Voucher Reviews at Northrop Grumman Integrated Systems for each GFY. Effective October 1, 2010, we will substantially increase the frequency of Interim Voucher Reviews at Northrop Grumman Integrated Systems specific to the BAMS contract to address your recommendation in A.2.a. above. We will continue to conduct these Interim Voucher Reviews until such time as the contractor can demonstrate that it can bill in accordance with the contract terms.

A.2.b. Partially concur. In response to your recommendation, we will initiate a direct cost audit on the BAMS contract to address the identified risk area of Direct Travel Costs. We will also accelerate the audit of the contractor's CY 2008 Incurred Cost with a projected completion date of September 30, 2011. As mentioned earlier, there is no incurred cost claim specific to BAMS. The Incurred Cost Claims at Northrop Grumman Integrated Systems include over 200 flexible-priced contracts and require extensive sampling and testing. The BAMS contract is on-going through CY 2015.

Revised

RD-2 225.2.B

October 1, 2010

SUBJECT: Response to Department of Defense Office of Inspector General (DoDIG)
Draft Report Titled, *Contract Oversight for the Broad Area Maritime Surveillance (BAMS) Contract Needs Improvement*, dated September 2, 2010 (Project No. D2009-D000AS-0247.002)

We currently review and sample select cost elements of this contract as part of our Interim Voucher Sampling Plan. Each billing cycle we continue sampling different cost elements to supporting documentation for this contract. Since the BAMS period of performance continues to CY 2015; accelerating completion of the CY 2009 Incurred Cost Claim audit at the cost of other audits would not generate any increased value/savings to the Government. We believe that performing a direct cost audit on the BAMS Interim Voucher Reviews on a real-time basis specific to the BAMS contract provides the most effective surveillance and visibility into the BAMS contract.

Questions regarding this memorandum should be directed to [REDACTED]

[REDACTED] Regional Director, Northeastern Region, at [REDACTED]


Ronald C. Meldonian
Regional Director

Copy furnished:

HQs, P
DRD-2
RAMB-2
2201 (G. Bernard)

Defense Contract Management Agency Comments



DEFENSE CONTRACT MANAGEMENT AGENCY
6350 WALKER LANE, SUITE 300
ALEXANDRIA, VIRGINIA 22310-3241

OCT 08 2010

MEMORANDUM FOR DEFENSE INSPECTOR GENERAL, PROGRAM DIRECTOR,
ACQUISITION AND CONTRACT MANAGEMENT

SUBJECT: Draft Report on the Audit of "Contract Oversight for the Broad Area Maritime
Surveillance Contract Needs Improvement"

Reference: Project No. D2009-D000AS-0247.002

This is the Defense Contract Management Agency (DCMA) response to the DoD IG draft
report. The Agency's comments on the recommendations are enclosed.

Point of contact is [REDACTED]

A handwritten signature in blue ink, appearing to read "C. Williams", is positioned above the printed name of the Director.

CHARLIE E. WILLIAMS, JR.
Director

Enclosure:
As stated

DCMA Comments to DoD IG Draft Report on the Audit of "Contract Oversight for the Broad Area Maritime Surveillance Contract Needs Improvement" (Project Number D2009-D000AS-0247.002, dated September 2, 2010)

Recommendation:

B.1 We recommend that the Director, Defense Contract Management Agency:

a. Direct the Commander, Defense Contract Management Agency, Bethpage, New York to:

(1) Develop a complete and comprehensive quality assurance surveillance plan for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Subpart 46.4, "Government Contract Quality Assurance."

DCMA Response: Partially Concur. DCMA Bethpage utilizes a facility wide QA surveillance approach. At the time of contract award, in April 2008, a facility wide surveillance plan was in place, which was revised in Feb 2009 and provided to the IG team for review. While not specifically referencing the BAMS program, it did include reference to all other programs under administration by the CMO. This plan has been continually updated until the current revision of 17 Feb 2010, which now references the BAMS program. In addition, DCMA Northrop Grumman Bethpage utilizes other supporting plans covering areas such as Supply Chain, Critical Safety Items (CSI), and Logistics. These plans further describe areas of surveillance activity including issuance of Letters of Delegation (LOD), which provide instructions for required subcontract surveillance to local DCMA offices. At the time of the audit, these plans were not referenced or linked to the Quality Surveillance Plan, but were offered to the audit team to review.

Although there have been surveillance plans in place throughout the period of the contract, DCMA Northrop Grumman Bethpage continues to modify the surveillance planning process to provide enhancements and to conform to new Agency guidance. The current Facilities Quality Assurance Surveillance plan will be revised again to reflect current policy and to integrate all other supporting plans into this plan. The Quality Assurance plan will contain facility wide as well as all BAMS program specific surveillance activities and will be updated by 01 November 2010.

(2) Perform inspections and document the inspections completed for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Part 46, "Quality Assurance."

DCMA Response: Partially Concur. The BAMS contract was issued to Northrop Grumman Systems Corporation at the Bethpage site under the cognizance of DCMA Northrop Grumman Bethpage for contract administration functions. However, no product is actually manufactured or inspected at the Bethpage campus. Air Vehicle (A/V) and Prime Mission Equipment (PME) manufacturing is accomplished via Purchase Orders to subcontractors, or via Interdivisional

Work Orders (IWOs) to other Northrop Grumman sites along with delegated functions related to specific DCMA activities at these contractor facilities. Therefore, DCMA inspections are performed in accordance with the government Letters of Delegation (LODs) issued to local DCMA offices that have cognizance of these subcontractors or other Northrop Grumman sites. To date, approximately 100 LODs for Quality Assurance (QA) have been issued, which include the detailed inspections required to validate contractor performance in accordance with FAR Part 46. Documentation is required to be maintained by the local DCMA offices responsible for the delegated activities as defined in the LODs and will be monitored by DCMA Northrop Grumman Bethpage. Analysis of such documentation results in adjusting risk, and associated strategies in the overarching Quality Assurance Surveillance Plan.

b. Instruct the Director, Defense Contract Management Agency, Earned Value Management Center to:

(1) Perform a review to determine whether the Broad Area Maritime Surveillance contractors' outdated or previously acquired earned value management systems remain valid and comply with current earned value management systems standards as required by the Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

DCMA Response: Concur. An initial review indicated that two suppliers are operating under EVMS acceptances issued while under different corporate entities. Additionally, one site is using an acceptance issued at another site. Each of those sites will undergo DCMA EVMS implementation reviews to ensure compliance.

(2) Prohibit contractors from using a validation letter from a previously acquired company's earned value management system unless the contractor demonstrated that it is using the system as it was validated in accordance with Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

DCMA Response: Concur. See DCMA Response (1) and (3).

(3) Perform surveillance of the earned value management systems for the Broad Area Maritime Surveillance contractors as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

DCMA Response: Partially Concur. As part of the DCMA Systems Surveillance Operating Manual (SSOM), the contracts surveyed each year are evaluated on a risk matrix to determine if data from each contract will be used in that year's annual EVMS surveillance. Low risk contracts may not contribute data to the evaluation of the EVM system each year, and are conducted in accordance with Agency EVMS Surveillance instruction SSOM.

(4) Validate that the appropriate Defense Contract Management Agency office for the Broad Area Maritime Surveillance contractors:

(a) Created an earned value management system surveillance plan as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

DCMA Response: Concur. All DCMA Contract Management Offices (CMOs) having the BAMS contract(s) under surveillance are operating IAW the SSOM, have systems surveillance plans (SSPs) except one. At this site, while the contract is between \$20M < \$50M, and requires no formal validation review an SSP is in development and expected to be completed with FY11 cycle.

(b) Performed monthly surveillance of the earned value management system as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008 and the earned value management system surveillance plans.

DCMA Response: Concur. See DCMA Response (4) (a).

(5) Notify DOD acquisition officials that the data generated from the Broad Area Maritime Surveillance contractors' earned value management systems should not be considered fully reliable until the systems are re-validated and receive the required system surveillance.

DCMA Response: Non-concur. All 11 Prime Contractor and Sub-contractor sites are executing the on-going system surveillance IAW the SSOM as required by Agency instruction, conducting monthly surveillance activities, and producing surveillance requirement products in the form of Standard Surveillance Plans (SSP), Standard Surveillance Reports (SSRs) and Corrective Action Requests (CARs) where appropriate. The DCMA EVMS surveillance process and DCMA compliance review process are working and surveillance is being monitored. It cannot be concluded that there is risk to data, system, or accuracy reliability within the DCMA EVMS respective to the BAMS program.

Assistant Secretary of the Navy for Acquisition and Logistics Management



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

29 September 2010

MEMORANDUM FOR DEPARTMENT OF DEFENSE - INSPECTOR GENERAL
ARLINGTON, VIRGINIA

SUBJECT: Department Of Defense Inspector General Draft Report – “Contract Oversight for the Broad Area Maritime Surveillance Contract Needs Improvement”, September 2, 2010 (Project No. D2009-D000AS-0247.002)

The Department of the Navy (DoN) hereby endorses and forwards the attached Naval Air Systems Command response to the subject draft report. The response provides detailed comments regarding the findings and recommendations contained in the subject draft report. The DoN's response should be incorporated into the final DODIG report.

If you have any questions pertaining to this memo or its attachments, please refer them to [REDACTED]

A handwritten signature in cursive script, reading "Bruce A. Sharp".

Bruce A. Sharp
Director, Program Analysis and
Business Transformation
Deputy Assistant Secretary of the Navy
(Acquisition and Logistics Management)

Attachments:
As Stated



DEPARTMENT OF THE NAVY
NAVAL AIR SYSTEMS COMMAND
RADM WILLIAM A. MOFFETT BUILDING
47123 BUSE ROAD, BLDG 2272
PATUXENT RIVER, MARYLAND 20670-1547

IN REPLY REFER TO:

Ser AIR-2.4.2.1/10-266
SEP 27 2010

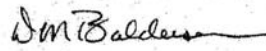
From: Assistant Commander for Contracts, Naval Air Systems Command (AIR-2.0)
To: Assistant Secretary of the Navy for Research Development and Acquisition
Via: NAVAIR Inspector General

Subj: DoD IG DRAFT REPORT ON CONTRACT OVERSIGHT FOR THE BROAD AREA
MARITIME SURVEILLANCE CONTRACT NEEDS IMPROVEMENT (PROJECT
NUMBER D2009-D000AS-0247.002)

Ref: (a) E-Mail [REDACTED] DoDIG dtd 09/02/10 @ 0856
(b) DoD Directive 5400.7-R, Freedom of Information Act Program

Encl: (1) PEO(U&W)/AIR-2.0 Response to Subject Draft Report

1. Reference (a) forwarded subject draft report for review and comments. Accordingly, enclosure (1) provides our response.
2. In accordance with Chapter 3, paragraph C3.2.1.2.1 of reference (b), no Freedom of Information Act (FOIA) markings are required.
3. Please direct questions concerning the response to [REDACTED]


DIANE M. BALDERSON

Copy to:
PEO(U&W)

**Naval Air Systems Command (NAVAIR)
Program Executive Officer, Unmanned Aviation and Strike Weapons (PEO(U&W))
RESPONSE TO DODIG DRAFT REPORT
Contract Oversight for the Broad Area Maritime Surveillance Contract
Needs Improvement
Project Number D2009-D000AS-0247.002, Dated September 2, 2010**

FINDING A: Improper Contract Management at Naval Air Systems Command

The NAVAIR BAMS PCO, contracting officer's representative (COR), and program officials did not properly manage the BAMS contract worth \$1.8 billion. Specifically,

- the PCO and the COR did not verify that the BAMS contractor was entitled to the \$329.3 million paid,
- the PCO and the COR did not review any contractor bills prior to payment to the BAMS Contractor,
- the PCO and the COR did not require the BAMS contractor to submit bills for payment in accordance with the DOD Regulation 7000.14-R, "DOD Financial Management Regulation," (DOD FMR) or comply with the terms of the contract,
- the PCO did not verify that DCMA officials conducted surveillance of the contract,
- the PCO and COR did not create or maintain an auditable Government-furnished property listing,
- the PCO and COR did not establish a complete property-sharing agreement between the Navy BAMS program and the Air Force Global Hawk program to share specialized tools and testing equipment worth more than \$150 million,
- the PCO and COR did not adequately plan for the use or oversight of Government-furnished property, and
- BAMS program officials did not conduct an integrated baseline review (IBR) until more than 180 days after the required completion date.

These conditions occurred because BAMS contracting officials did not completely or fully perform their assigned duties; comply with Federal, DOD, and Navy policies; provide effective contract oversight; or complete training requirements. As a result, the BAMS program is at risk for increased costs, schedule delays, and not meeting the needs of the warfighter. Additionally, based on our inquiries, Northrop Grumman reduced costs on the BAMS contract by \$206,000 in unallowable travel expenses.

Enclosure (1)

NAVAIR RESPONSE: Partially concur. Please see the following responses to the individual recommendations below.

RECOMMENDATION A.1: Assistant Commander for Contracts, Naval Air Systems Command:

a. Conduct an annual training review of all contracting professionals to verify that they received training to maintain the knowledge, skills, and abilities relevant to contracting as required by DOD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program," December 21, 2005.

RESPONSE: Concur.

ACTION PLANNED. NAVAIR will implement a mandatory review of training on an annual basis to ensure that NAVAIR's contracting professionals are receiving the training necessary to maintain their relevant contracting knowledge, skills, and abilities relevant to contracting as required by DOD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program," dated December 21, 2005. The completion and review of the initial training assessment is planned to be completed by 31 January 2011. Thereafter, an annual review coinciding with existing performance review schedules will be accomplished. Completion of the reviews will be tracked using the Competency's mandatory training and Individual Training Plan tracking spreadsheets which will be maintained by the Departmental and site analysts and reviewed by the Resource Management Office with feedback provided to Departments, as needed.

b. Perform an annual review to verify that supervisors develop individual training plans with the procurement contracting officer and the contract specialist so that they are current and proficient in their functional areas and they meet the 80 continuous learning points requirement in DOD Instruction 5000.66, "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program," December 21, 2005.

RESPONSE: Concur.

ACTION PLANNED. NAVAIR has added the requirement for an annual review to verify that supervisors develop individual training plans with the procurement contracting officer (PCO) and the contract specialist so that the PCO and contract specialist are current and proficient in their functional areas and meet the 80 continuous learning points required in accordance with DOD Instruction 5000.66 "Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program," dated December 21, 2005. Given that robust plans are already in place for all Contracts positions at the GS-12 and below level, formal Individual Training Plan (ITP) templates are in the process of being developed for use by senior specialists, Procurement Contracting Officers and Division Heads (i.e. GS-13 and above

or equivalent). Completion, review and approval of the ITP templates should be completed no later than 1 December 2010. These templates will be used by supervisors to develop ITPs for GS-13 and above (or equivalent) Contracts personnel. Initial review to ensure completion of this requirement will be accomplished by mid-February 2011. Thereafter, the Competency will institute a requirement to perform an annual update and review of all training plans. This annual review is planned to coincide with existing performance review schedules. Completion of this annual requirement will be tracked using the Competency's mandatory training and Individual Training Plan tracking spreadsheet which will be maintained by the Contracting Department and site analysts and reviewed by the Resource Management Office with feedback provided to Departments, as needed.

c. Initiate a review of the performance of the Broad Area Maritime Surveillance procurement contracting officer and determine whether administrative action is warranted.

RESPONSE: Do not concur. The performance of the BAMS PCO has been reviewed at both the Division Head level and Senior Executive Service (SES) Department Head level as part of the NSPS semi-annual and annual review process. Based upon these reviews, there have been no actions identified that would warrant administrative action or further review of the PCO's performance. Performance of the BAMS PCO, as well as all NAVAIR PCOs, is reviewed continuously throughout the year by cognizant supervisors in accordance with current personnel procedures.

d. Consider establishing a cost reimbursement contract line item in order to charge travel expenses incurred, on a cost reimbursement basis, for future cost-plus-award-fee contracts.

RESPONSE: Concur. NAVAIR will consider the inclusion of a cost reimbursement line item for travel with regard to future procurements.

e. Instruct that the Broad Area Maritime Surveillance procurement contracting officer:

(1) Request that Northrop Grumman Integrated Systems conduct a review of its travel claims approval process.

RESPONSE: Concur. Northrop Grumman Integrated Systems has already conducted a review of its travel claims approval process. Within 90 days, the BAMS Contracting Officer will request DCAA determine the adequacy of the Northrop Grumman travel claims approval process.

(2) Modify the contract to require that the contractor bills submitted for payment in the wide-area work flow system comply with DOD Regulation 7000.14 R, "DOD Financial Management Regulation," volume 10, chapter 8.

RESPONSE: Do not concur. Contract modification is not necessary. Contractor bills submitted for payment in the wide-area work flow system comply with DOD Regulation 7000.14 R, "DOD Financial Management Regulation," volume 10, chapter 8.

(3) Review and approve contractor bills submitted in the wide-area workflow system before payment.

RESPONSE: Do not concur. DoD AT&L direction clearly states that DCAA has sole authority for verifying claimed costs and approving interim payment requests, and the Administrative Contracting Officer (ACO) has the sole authority for approving final payment requests.

DFARS 242.803(b), Auditor receipt of voucher, states "(i) The contract auditor is the authorized representative of the contracting officer for - (A) Receiving vouchers from contractors; (B) Approving interim vouchers for provisional payment (this includes approving the fee portion of vouchers in accordance with the contract schedule and administrative contracting officer instructions) and sending them to the disbursing office; (C) Authorizing direct submission of interim vouchers for provisional payment to the disbursing office for contractors with approved billing systems; (D) Reviewing completion/final vouchers and sending them to the administrative contracting officer; and (E) Issuing DCAA Forms 1, Notice of Contract Costs Suspended and/or Disapproved, to deduct costs where allowability is questionable. (ii) The administrative contracting officer - (A) Approves all completion/final vouchers and sends them to the disbursing officer; and (B) May issue or direct the issuance of DCAA Form 1 on any cost when there is reason to believe it should be suspended or disallowed".

Furthermore, DFARS 242.202 Assignment of contract administration, states no contract shall be retained for administration if any contract administration function is to be performed at or near contractor's facilities (with limited exceptions). Since considerable contract administration functions must be performed in the contractor's facility, the BAMS contract must be administered by DCMA. Since Defense Management Review Decision (DMRD) 916 consolidated contract administration in DCMA, DCMA is organizationally poised to provide contract performance oversight especially well-suited to development of a major weapon system.

When Northrop Grumman was DCAA-approved for direct billing following the WAWF process, interim vouchers went directly to the disbursing office for payment. Currently, DCAA has removed the contractor's direct billing authority (July 23, 2009) and, therefore, DCAA reviews and approves each interim voucher.

(4) Review all travel expenses and the supporting documentation to verify that the contractor submits travel claims in accordance with Federal Acquisition Regulation Subpart 31.2, "Contracts With Commercial Organizations."

RESPONSE: Do not concur. As stated in response to recommendation A.1.e.(3), DoD AT&L direction clearly states that DCAA has sole authority for verifying claimed costs and approving interim payment requests, and the Administrative Contracting Officer (ACO) has

Revised

the sole authority for approving final payment requests. Furthermore, USD(AT&L) memorandum of October 2, 2001, makes clear that DoD components are not to require contractors to submit detailed cost information as part of the billing process.

(5) Identify all Government-furnished property required for performance of the Broad Area Maritime Surveillance contract to include all shared Air Force Global Hawk specialized tools and testing equipment in accordance with the Federal Acquisition Regulation Subpart 45.2, "Solicitation and Evaluation Procedures."

RESPONSE: Partially concur. All GFP, including shared Air Force Global Hawk specialized tools and testing equipment, has been appropriately identified. NAVAIR will further review the documentation to ensure it is accurate and meets FAR Part 45 and DoD Instruction 5000.64 requirements. Estimated completion date is 21 January 2011.

(6) Create and maintain a complete and auditable Government-furnished property listing as required by DoD Instruction 5000.64, "Accountability and Management of DOD-Owned Equipment and Other Accountable Property," November 2, 2006.

RESPONSE: Partially concur. See response to A.I.e (5) above.

(7) Modify the contract to include the revised and comprehensive Government-furnished property listing.

RESPONSE: Concur. We will continue to revise the Government-furnished property list throughout the execution of the contract as appropriate.

(8) Perform semiannual reviews of the Government-furnished property listing to account for all Government-furnished property.

RESPONSE: Concur. The BAMS IPT presently conducts periodic reviews of the GFP listing and will continue to perform this function. To date, reviews have been more frequent than semiannual.

(9) Establish a cost-sharing arrangement with the Air Force Global Hawk program that identifies how the Navy and Air Force plan to divide the maintenance, labor, and repair costs for the shared specialized tools and testing equipment.

RESPONSE: Partially concur. The maintenance, labor, and repair costs for the shared specialized tools and testing equipment would normally be the responsibility of the agency that has ownership of the equipment. NAVAIR will review the shared assets to determine if a cost-sharing arrangement is necessary. Estimated completion date is 21 January 2011.

(10) Develop a mitigation strategy for the Broad Area Maritime Surveillance program to identify alternate solutions for when the Air Force Global Hawk specialized tools and testing equipment are not readily available.

RESPONSE: Partially concur. The Navy, Air Force and the Prime Contractor, Northrop Grumman Corporation, work closely together to find opportunities to leverage assets from each program and sequence the use of specialized tools and test equipment to ensure that minimum costs are incurred, while maintaining the readiness of the individual platforms. Through the coordination activities, BAMS UAS program will save millions of dollars of potentially unnecessary costs. The Navy, Air Force and Prime Contractor have a proven record of working together on the BAMS Demonstrator program sharing resources, and ensuring that requirements from both Services are met in a timely manner.

(11) Require that the contracting officer's representative complete the training identified in the Office of Management and Budget Memorandum, Office of Federal Procurement Policy, "The Federal Acquisition Certification for Contracting Officer Technical Representatives," November 26, 2007, until DOD establishes and implements a standard contracting officer's representative certification program.

RESPONSE: Partially concur. Office of Management and Budget Memorandum, Office of Federal Procurement Policy, "The Federal Acquisition Certification for Contracting Officer Technical Representatives," November 26, 2007, applies to all executive agencies, except those subject to the Defense Acquisition Workforce Improvement Act. The DOD Standard for Certification of Contracting Officer's Representatives (COR) for Service Acquisitions was released 29 March 2010.

The COR has completed the training mandated by NAVAIR instruction 4200.28D dated July 14, 1999. In light of the new direction from DASN, (DASN (A&LM memo dated 18 May 2010) the training taken by the COR will be reviewed to determine whether it meets the requirements of COR 222 Contracting Officer Technical Representative as modified 24 August 2010. Should the training taken by the COR not meet the requirements of COR 222, then the COR will complete COR 222 or an equivalent course. Estimated completion date is 26 November 2010.

RECOMMENDATION A.2: We recommend that the Director, Defense Contract Audit Agency, instruct the Defense Contract Audit Agency, Long Island, New York, auditors to:

a. Increase the contractor bill reviews for Northrop Grumman Integrated Systems until the contractor demonstrates that it can bill in accordance with the contract terms.

b. Perform the incurred costs audits for the Broad Area Maritime Surveillance contract within one year of the date the final report is issued for all years under the contract for which the contractor has provided incurred cost submissions.

NAVAIR COMMENTS: No NAVAIR response will be provided.

RECOMMENDATION A.3: We recommend that the Program Manager, Persistent Maritime Unmanned Aircraft Systems Program Office:

a. Conduct integrated baseline reviews as required by Defense Federal Acquisition Regulation Supplement clause 252.234-7002, "Earned Value Management System," and the Broad Area Maritime Surveillance contract.

RESPONSE: Partially concur. The BAMS UAS program conducted the Performance Measurement Baseline (PMB) in November 2008, which is the initiation of an Integrated Baseline Review (IBR) process. The PMB was conducted within 180 days of program re-start following the denial of the protest. Furthermore, an IBR was conducted in July 2009 after the incorporation of a major contract modification in February 2009. All future IBRs on the BAMS UAS program will be conducted in accordance with the DFAR 252.234-7002.

b. Initiate a review of the performance of the Broad Area Maritime Surveillance contracting officer's representative and determine whether administrative action is warranted.

RESPONSE: Do not concur. The performance of the BAMS Contracting Officer's Representative (COR) has been reviewed at both a Division Head level and Department Head level as part of the NSPS semi-annual and annual review process. Based on these reviews, there have been no actions identified that would warrant administrative action or further review of the COR's performance. Performance of the BAMS COR, as well as all NAVAIR CORs, is reviewed throughout the year by cognizant supervisors in accordance with current personnel procedures.

FINDING B: Additional Actions Needed by Defense Contract Management Agency to Improve Contractor Surveillance

DCMA officials did not perform the necessary surveillance of the BAMS contract or the BAMS contractors' EVM systems. Specifically, DCMA officials did not:

- develop a complete quality assurance surveillance plan,
- perform any inspections to validate the BAMS contractor's performance for over 23 months,
- validate previously acquired and outdated EVM systems for the BAMS prime and subcontractors from 1975 and 1978, or

- perform the necessary surveillance of the BAMS subcontractors' EVM systems.

These conditions occurred because DCMA officials did not perform their duties as assigned, have the appropriate resources available to conduct the necessary EVM system surveillance, or comply with the FAR, DFARS, and DCMA guidance. As a result, BAMS program officials had no assurance that the BAMS contractor met contract quality requirements or the needs of the warfighter. BAMS program officials also made and will continue to make decisions affecting the \$1.8 billion contract based on information that may not be reliable.

NAVAIR COMMENTS: No comment.

RECOMMENDATION B.1: We recommend that the Director, Defense Contract Management Agency:

a. Direct the Commander, Defense Contract Management Agency, Bethpage, New York to:

(1) Develop a complete and comprehensive quality assurance surveillance plan for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Subpart 46.4, "Government Contract Quality Assurance."

(2) Perform inspections and document the inspections completed for the Broad Area Maritime Surveillance contract in accordance with Federal Acquisition Regulation Part 46, "Quality Assurance."

b. Instruct the Director, Defense Contract Management Agency, Earned Value Management Center to:

(1) Perform a review to determine whether the Broad Area Maritime Surveillance contractors' outdated or previously acquired earned value management systems remain valid and comply with current earned value management systems standards as required by the Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

(2) Prohibit contractors from using a validation letter from a previously acquired company's earned value management system unless the contractor demonstrated that it is using the system as it was validated in accordance with Defense Federal Acquisition Regulation Supplement Subpart 234.2, "Earned Value Management System."

(3) Perform surveillance of the earned value management systems for the Broad Area Maritime Surveillance contractors as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

(4) Validate that the appropriate Defense Contract Management Agency office for the Broad Area Maritime Surveillance contractors:

(a) Created an earned value management system surveillance plan as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008.

(b) Performed monthly surveillance of the earned value management system as required by the Defense Contract Management Agency, "Earned Value Management Standard Surveillance Operating Manual," January 2008 and the earned value management system surveillance plans.

(5) Notify DOD acquisition officials that the data generated from the Broad Area Maritime Surveillance contractors' earned value management systems should not be considered fully reliable until the systems are re-validated and receive the required system surveillance.

NAVAIR RESPONSE: No NAVAIR response will be provided.

RECOMMENDATION B.2: Assistant Commander for Contracts, Naval Air Systems Command:

a. Verify that Defense Contract Management Agency Bethpage officials developed a complete and comprehensive quality assurance surveillance plan in accordance with Federal Acquisition Regulation Subpart 46.4, "Government Contract Quality Assurance."

RESPONSE: Partially concur. NAVAIR suggests recommendation B.2.a. should be changed to, "Defense Contract Management Agency Bethpage officials shall provide a certification to the BAMS contracting officer that they developed a complete and comprehensive quality assurance surveillance plan in accordance with Federal Acquisition Regulation Subpart 46.4, Government Contract Quality Assurance."

b. Validate that Defense Contract Management Agency Bethpage officials performed surveillance and inspections in accordance with the Federal Acquisition Regulation Part 46, "Quality Assurance."

RESPONSE: Partially concur. NAVAIR suggests recommendation B.2.b. should be changed to, "Defense Contract Management Agency Bethpage officials shall provide a yearly validation to the BAMS contracting officer that they performed surveillance and inspections in accordance with the Federal Acquisition Regulation Part 46, "Quality Assurance."

REVIEW OF INTERNAL CONTROLS: DOD Instruction 5010.40, "Managers' internal Control Program (MICP) Procedures," July 29, 2010, requires DOD organizations to implement a comprehensive system of internal controls that provide reasonable assurance that

programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses in the management and administration of the BAMS contract. The BAMS contracting officials did not review contractor bills, manage and maintain Government-furnished property listings, complete required continuous learning training requirements, or conduct integrated baseline reviews. In addition, Defense Contract Management Agency (DCMA) officials did not create an adequate quality assurance plan, perform inspections of contractor work, re-validate changes to Earned Value Management (EVM) systems, or perform surveillance of the systems. For specific results of these weaknesses, see Findings A and B of this report. Implementing all recommendations in this report will improve the internal controls over the management and administration of the BAMS contract. We will provide a copy of the final report to the senior officials responsible for internal controls at DCMA and NAVAIR.

PEO(U&W) / NAVAIR COMMENT ON INTERNAL CONTROL WEAKNESSES:

Partially concur. Please see the preceding responses to the individual recommendations above.



Inspector General Department of Defense